69TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
1st Session } { No. 991

DEPORTATION OF ALIENS

APRIL 26, 1926.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed

Mr. JOHNSON of Washington, from the Committee on Immigration and Naturalization submitted the following

REPORT

[To accompany H. R. 11489]

The Committee on Immigration and Naturalization, to whom was referred the bill introduced by Mr. Holaday (H. R. 11489) to provide for the deportation of certain aliens, and for other purposes, having had the same under consideration, reports it back to the House without amendment and recommends that the bill do pass.

The immigration acts of 1917 and 1924, which now appear to represent the settled policy of this Government, have made it possible, to a great extent at least, to limit the entry into this country of undesirable and dangerous aliens. This bill will materially assist the immigration authorities in further preventing the entry of such aliens, and provides methods whereby those already unlawfully in the United States and those who may hereafter unlawfully enter or seek to enter the country may be deported.

There should be no objection to the deportation of aliens who constitute a menace to or an unjust burden upon our Government.

The principal reason for deporting undesirable aliens is to promote the maintenance of law and order in our country and to afford protection and opportunities for development to all the people residing in our country, aliens and citizens alike. No class of people suffer more from the actions of undesirable and law-breaking aliens than does that great body of worthy and deserving aliens residing in our midst, who in good faith are contributing to the welfare of the country, and are in large numbers attempting to become citizens of the United States. Unworthy conduct and flagrant disregard of the laws of our country on the part of a very small percentage of the aliens residing in the United States unfortunately, but certainly tend to create a prejudice in the public mind against all aliens. Therefore the deportation of that small percentage of undesirable

aliens will redound to the benefit of the worthy and deserving aliens in the country to an equal, if not greater, degree than to that of our own citizens.

The hearings on the subject matter contained in H. R. 11489 were exhaustive and are printed in two volumes. Much important testimony was developed. The necessity for revision and strengthening of the deportation clause of the immigration act of 1917 was fully shown.

Printed copies of these hearings are available for the use of the members.

Hon. Lincoln C. Andrews, Assistant Secretary of the Treasury in charge of the enforcement of the prohibition and narcotic laws, did not have an opportunity to be heard by the committee during consideration of the deportation bill. He has submitted his views in the following letter:

TREASURY DEPARTMENT,
Washington, April 23, 1926.

Hon. ALBERT JOHNSON,
House of Representatives.

MY DEAR CONGRESSMAN JOHNSON: I am sorry that lack of time has prevented me from giving as much consideration to H. R. 11489 and the preliminary draft of this bill as I would have desired.

As a general plan for the deportation of aliens for offenses against the laws of the United States, I think the bill is a good one. The provisions of subdivision 8 of section 2 on page 3 apply to aliens violating the national prohibition act and seem adequate and not at all unreasonable. I believe that such a bill would in all probability prove to be of aid in law enforcement. It has been the experience of the prohibition administrators, in several districts, that the preponderance of law violations come from the foreign-born element.

A house cleaning, such as this measure contemplates (together with a more effective border patrol), should relieve congestion in our courts, and should relieve the United States and the various States individually of the support of many aliens in prisons and similar institutions.

Yours sincerely,

L. C. ANDREWS, *Assistant Secretary.*

The proposed bill is printed as Appendix A of this report.

The remainder of this report is divided into six parts and three appendices, as follows:

Part I. General scope of the bill.
Part II. Grounds for arrest and deportation.
Part III. Procedure in arrest and deportation cases.
Part IV. Exclusion and deportation.
Part V. Provisions common to exclusion and arrest.
Part VI. Miscellaneous provisions.
Appendix A. The bill as reported.
Appendix B. Sections 18, 19, and 20 of the immigration act of 1917.
Appendix C. The act of December 26, 1920, entitled "An act to provide for the treatment in hospitals of diseased alien seamen," which is repealed by the bill, but the subject matter of which is provided for in the bill.

PART I.—GENERAL SCOPE OF BILL

The proposed deportation act of 1926 is chiefly an extension and revision of the provisions relating to the deportation of aliens contained in sections 18, 19, and 20 of the immigration act of February

5, 1917 (39 Stat. 874), set fourth in Appendix B of this report, together with certain added provisions for the better enforcement of the law. These provisions have been rearranged into a more orderly classification, so that section 18 governs the exclusion and deportation of arriving aliens who are not found to be entitled to enter the United States, section 19 governs the arrest and deportation of aliens who have entered the United States either legally or illegally, while section 20 contains general provisions applicable to the deportation of both classes of aliens.

IN ADDITION TO OTHER LAWS

The provisions of the bill are in addition to other acts and provisions of law relating to deportation. The following laws have not been repealed:

(1) The act entitled "An act to exclude and expel from the United States aliens who are members of the anarchistic and similar classes," approved October 16, 1918, as amended by an act to amend such act, approved June 5, 1920;

(2) The immigration act of 1924, section 14 of which provides for the deportation, without time limit, of aliens excluded by that act, or remaining in the United States longer than permitted by law or regulations;

(3) The act entitled "An act to deport certain undesirable aliens and to deny readmission to those deported," approved May 10, 1920 (relating to war-time offenses, etc.);

(4) Section 2 of the act entitled "An act to prohibit the importation and the use of opium for other than medicinal purposes," approved February 9, 1909, as amended; and

(5) Laws relating to the immigration, exclusion, and deportation of Chinese persons or persons of Chinese descent.

Section 8 of the bill, however, provides that whenever in any law heretofore enacted it is provided that any alien shall be deported, the arrest and deportation of such alien shall (regardless of the manner provided in such law) be made in the same manner as provided in sections 19 and 20 of the act of 1917 as amended. In reference to the Chinese exclusion acts it should be noted that subdivision (e) of section 19 of the 1917 act, as amended by the bill, puts upon Chinese persons when arrested under the provisions of such section the burden of proving their right to remain in the United States.

In order to have complete uniformity in deportation procedure, section 8 of the bill further provides that whenever in any law hereafter enacted it is provided that any alien shall be deported, the arrest and deportation shall, unless expressly provided to the contrary, be made in the same manner as provided in such sections 19 and 20.

PART II.—GROUNDS FOR ARREST AND DEPORTATION

The proposed amendment of section 19 of the immigration act of 1917 extends various time limitations, imposed by the immigration act of 1917, and provides that the following aliens shall, within the various time limitations after entering the United States, be taken

into custody and deported. The substance of many of the various grounds for deportation carried in this bill are already a part of the immigration act of 1917. In all cases where changes have been made with reference to grounds for deportation or where provision is made for entirely new grounds for deportation such changes or such new provisions are mentioned in this report.

ALIENS EXCLUDABLE AT TIME OF ENTRY

(1) An alien who at the time of entry was a member of one or more of the classes excluded by law from admission to the United States—at any time within five years after entry.

This is the same as the provisions of section 19 of the existing law. It should be noted, however, that under the provisions of other laws an alien may be deported after five years after entry if he belongs to certain excluded classes, such, for example, as the anarchistic classes covered by the act of October 16, 1918, as amended by the act of June 5, 1920, and the aliens entering in violation of the immigration act of 1924, who by section 14 of that act are deportable at any time after entry.

SURREPTITIOUS OR UNLAWFUL ENTRY

(2) An alien who entered the United States at any time or place other than as designated by immigration officials, or who eluded examination or inspection, or who obtained entry by a false or misleading representation—at any time after entry, unless the entry was before July 1, 1924, in which case at any time within three years after entry.

The existing law reads:

At any time within three years after entry any alien who shall have entered the United States by water at any time or place other than as designated by immigration officials, or by land at any place other than one designated as a port of entry for aliens by the Commissioner General of Immigration, or at any time not designated by immigration officials, or who enters without inspection.

No good reason is seen for perpetuating the distinction made in existing law between entering by water or by land. The suggested amendment is broad enough to cover entry in any manner. Immigration officials, of course, will designate times and places only as authorized by their superior officers. It is deemed desirable to state affirmatively the additional grounds set forth in this paragraph which can now be covered only by resorting to the phrase "who enters without inspection."

It will be noted that where the entry is before the effective date of the immigration act of 1924, the present time limit of three years after entry is retained, but if the entry was on or after such date there is no time limit on deportation.

UNLAWFUL REMAINING IN THE UNITED STATES

(3) An alien who remains in the United States for a longer time than authorized by law or regulations made under authority of law—at any time after entry, unless the entry was before July 1, 1924, in which case at any time within three years after entry.

This is a new provision which supplements a similar one in section 14 of the immigration act of 1924. The act of 1917 in section 19 contains the following language:

Any alien who shall have entered or who shall be found in the United States in violation of this act, or in violation of any other law of the United States.

This clause is omitted, as being covered by paragraphs (1), (2), and (3).

As in the case of paragraph (2), the time limit in the case of entry before the effective date of the immigration act of 1924 is placed at three years. An alien who enters on or after that date is subject to deportation without time limit on the ground covered by this paragraph.

PUBLIC CHARGES

(4) An alien who at any time within seven years after entry is a public charge from causes not affirmatively shown to have arisen subsequent to entry—at any time after entry.

Existing law reads:

Any alien who within five years after entry becomes a public charge from causes not affirmatively shown to have arisen subsequent to landing.

The change extends the five year time limitation to seven years.

INSANE ALIENS

(5) An alien who at any time within seven years after entry, from causes not affirmatively shown to have arisen subsequent to entry, is an idiot, imbecile, feeble-minded person, epileptic, insane person, person of constitutional psychopathic inferiority, or person with chronic alcoholism—at any time after entry

This is a new provision to make deportable aliens of the enumerated classes who, at the time of their entry, were affected by one or more of such conditions in such a manner as not to make them appear subject to exclusion. This would make it possible to deport the enumerated classes regardless of the fact that they are not public charges, the primary purpose being to rid the country of this dangerous and undesirable type of aliens. It seems to the committee that wealth or poverty in this class of cases is immaterial and that the country should rid itself of the rich idiot as well as one who is a public charge.

CONVICTION OF CRIME

(6) An alien who is convicted of any offense (committed after the enactment of the deportation act of 1926 and within 10 years after entry) for which he is sentenced to imprisonment for a term of 1 year or more—at any time after entry, but not after the expiration of 3 years after the termination of the imprisonment.

The existing law provides:

Any alien who is hereafter sentenced to imprisonment for a term of one year or more because of conviction in this country of a crime involving moral turpitude committed within five years after the entry of the alien to the United States, or who is hereafter sentenced more than once to such a term of imprisonment because of conviction in this country of any crime involving moral turpitude, committed at any time after entry—

Except that deportation shall not be made or directed in such case—

if the court, or judge thereof, sentencing such alien for such crime shall, at the time of imposing judgment or passing sentence or within 30 days thereafter, due notice having first been given to representatives of the State, makes a recommendation to the Secretary of Labor that such alien shall not be deported.

The three important changes effected by this paragraph are: (1) The extension of the 5-year time limitation to a 10-year limitation for a single offense; (2) the substitution for the vague and uncertain test of "moral turpitude" the test of a sentence to imprisonment for a term of one year or more; and (3) the elimination of the provision for

a recommendation of nondeportation by the court or judge sentencing such alien.

(7) An alien who is convicted of any offense (committed after the enactment of the deportation act of 1926 and at any time after entry) for which he is sentenced to imprisonment for a term of one year or more, and who is thereafter convicted of the same or any other offense (committed after the enactment of the deportation act of 1926 and at any time after entry) for which he is sentenced to imprisonment for a term of one year or more—at any time after entry, but not after the expiration of three years after the termination of the imprisonment.

This provides for the deportation of an alien who has been convicted of the second felony, without any time limitation except that the deportation proceedings must be begun within three years after the termination of the imprisonment.

(8) An alien who is convicted of any offense (committed after the enactment of the deportation act of 1926 and within ten years after entry) for which is he sentenced to imprisonment for a term which, when added to the terms to which sentenced under one or more previous convictions of the same or any other offense (committed after the enactment of the deportation act of 1926) amounts to eighteen months or more—at any time after entry, but not after the expiration of three years after the termination of the imprisonment.

This is a new provision to make deportable the alien who is an habitual criminal but who has escaped with sentences of less than one year. Under this paragraph, when an alien who has been convicted more than once of minor infractions of law, has received terms of imprisonment aggregating 18 months or more, he is to be deported.

Subdivision (b) of section 19 as rewritten in the bill gives the alien convicted of crime two safeguards not affirmatively specified in existing law, although, as a matter of practice, it is quite likely that both are being afforded without specific provision. They are that no conviction can be used as a ground of deportation unless, first, it is a conviction in a court of record, and, second, that the judgment on such conviction has become final. This provision is applicable to every conviction alluded to in paragraphs (6), (7), and (8) above quoted and explained. Where an alien has appealed, or while he has the right to appeal, from the judgment on a conviction rendering him liable to deportation, he may not be deported. These safeguards are deemed desirable, especially since the court or judge is no longer given the right to recommend that the alien be not deported.

This subdivision also provides that in the case of a sentence for an indeterminate term in which the minimum term under the sentence is less than one year, the term actually served shall be considered the term for which sentenced where deportation is based upon the length of the term of imprisonment.

An alien who has been unconditionally pardoned after conviction of an offense specified in paragraphs (6), (7), or (8) above shall not be deported. Thus a pardon would not relieve from deportation an alien who has violated or conspired to violate the white slave traffic act or the Federal antinarcotic laws, nor would it save persons engaged in or connected with prostitution, nor others who are deported under some provision of law other than the paragraphs enumerated. This provision of the bill continues the principle embodied in a provision of the existing law which exempts from deportation an alien who has been pardoned after conviction of a crime involving moral turpitude.

It should be noted that there is no relief from deportation if the pardon is conditioned upon continued good behavior. Such a pardon amounts only to a commutation of sentence or a parole, and subdivision (c) provides that in such cases the deportation may be effected upon the release from confinement.

Subdivision (c) of section 19 provides that an alien sentenced to imprisonment shall not be deported under any provision of law until after the termination of the imprisonment, which is similar in principle to the provision in section 19 of the existing law. Particular attention is directed to the fact that an alien violating the provisions of section 10 or 11 of the bill is not to be deported until after the termination of the imprisonment to which he may be sentenced under such section.

VIOLATION OF NARCOTIC LAWS AND WHITE SLAVE TRAFFIC ACT

(9) An alien who has, after the enactment of the deportation act of 1926, violated or conspired to violate, (A) the white slave traffic act, or any law amendatory of, supplementary to, or in substitution for, such act; or (B) any statute of the United States prohibiting or regulating the manufacture, production, compounding, possession, use, sale, exchange, dispensing, giving away, transportation, importation, or exportation of opium, coca leaves, or any salt, derivative, or preparation of opium or coca leaves—at any time after entry.

This is a new provision and puts this class of aliens into the same category as alien prostitutes, so far as deportation is concerned, are placed by the existing law and paragraph (10) following.

Where it can be established in any manner, by immigration officials or otherwise, that an alien has violated or conspired to violate these particular laws he may be immediately taken into custody and deported without awaiting his conviction for such offense, just as under existing law the immigration authorities may summarily arrest and deport aliens found practicing prostitution or connected with the business of prostitution. An alien may still be deported under the provisions of section 2 of the act of February 9, 1909, as amended, relating to the importation of narcotics, although this paragraph furnishes a supplementary basis for deportation and permits deportation for a violation of that act, irrespective of a conviction of a violation. The primary purpose of the paragraph, however, is to catch the large number of alien violators of the so-called Harrison Antinarcotic Act of December 17, 1914, as amended. At the present time no alien violators of the antinarcotic laws are being deported except those who have been convicted under section 2 of the act of February 9, 1909, as amended by the act of May 26, 1922, which requires knowledge or fraudulent intent. In many cases violators of the Harrison Act are given nominal or short sentences, and in the case of such violators who are given sentences of one year or more, the Solicitor of the Labor Department has held that such offenses do not involve moral turpitude. The question has not been settled by the courts for the reason that, in view of the solicitor's holding, the department has not attempted to deport in such cases.

PROSTITUTES

(10) An alien who is found practicing prostitution or is an inmate of, or connected with the management of, a house of prostitution, or who receives, shares in, or derives benefit from any part of the earnings of any prostitute, or who manages or is employed by, in, or in connection with any house of prostitution or

music or dance hall or other place of amusement or resort habitually frequented by prostitutes or where prostitutes gather, or who in any way assists any prostitute, or protects or promises to protect from arrest any prostitute, or who imports or attempts to import any person for the purpose of prostitution, or for any other immoral purpose, or who enters for any such purpose, or who has been convicted and imprisoned for a violation of any of the provisions of section 4 hereof—at any time after entry.

The provisions of section 19 of the 1917 act relating to prostitution as a ground for deportation have been changed in but two respects:

First, there is added as an additional class of deportable persons any alien entering the United States for the purpose of prostitution or for any other immoral purpose; and

Second, there is omitted the provision of the present law which makes deportable any alien who, after being excluded and deported or arrested and deported under the provisions relating to the deportation of prostitutes and other immoral persons, returns to and enters the United States. This language is omitted as being surplusage. Section 10 of the bill provides for the exclusion from admission of any person deported from the United States on any ground whatsoever, and paragraph (1) of subdivision (a) of section 19 as rewritten makes deportable any person who, at the time of entry, belongs to any of the classes excluded by law. It becomes unnecessary, therefore, to repeat the language of the present law specifically as to these classes of undesirable aliens.

AIDING ALIENS TO EVADE IMMIGRATION LAWS

(11) An alien who willfully conceals or harbors, attempts to conceal or harbor, or aids, assists, or abets any other person to conceal or harbor, any alien liable to deportation, if the Secretary of Labor, after hearing, finds that he is an undesirable resident of the United States—at any time after entry.

This is a new provision, which needs no comment.

(12) An alien who willfully aids or assists in any way any alien unlawfully to enter the United States—at any time after entry.

This is also a new provision and is in addition to the penalties prescribed by section 8 of the act of 1917. Aliens in this country who seek to aid others to enter in violation of our laws should not be permitted to remain in the United States.

ALIENS IN COASTWISE TRADE

Several of the bills before the committee, which dealt with the subject of deportation of aliens and which served as the basis for H. R. 11489, contained as an additional class of deportable aliens "an alien who is found employed on a vessel engaged in the coastwise trade of the United States without having been admitted to the United States for permanent residence." This provision has been omitted from the bill as reported, for the reason that an alien seaman who is admitted temporarily for the purpose of reshipping foreign is deportable under paragraph (3), set forth above, if he stays in the country for a longer time than permitted by regulations (which at the present time is 60 days). The only effect of the omitted clause would have been to render deportable an alien seaman who is employed on a coastwise vessel within the 60-day period. It seemed to the committee that there was no reason for singling

out one particular kind of employment and prohibiting it during the 60-day period. The effect of the bill as reported is to place alien seamen on the same footing as all other aliens. If they stay in the United States more than the 60 days permitted by the regulations they will be deportable under paragraph (3), just as an alien admitted temporarily for any other purpose will be deportable if he stays longer than the terms of the permission accorded him.

ALIEN BELONGING TO MORE THAN ONE DEPORTABLE CLASS

Subdivision (i) of the proposed new section 19 of the act of 1917 is put in out of an abundance of caution to make it clear that it is the intention of Congress that an alien who is liable to deportation under any paragraph of such section 19 shall be deported whether or not he is liable to deportation under any other paragraph of the bill or in any other law, and, conversely, that the grounds for deportation set forth in the bill are in addition to and not in substitution for the grounds already existing under other laws. For instance, if an alien violates the narcotic drugs import and export act, he is to be deported (under paragraph (9) of subdivision (a) of section 19), even though he has not been convicted of the violation and consequently is not deportable under section 2 of such act, or even though he is convicted and sentenced to less than a year's imprisonment or merely fined. So, also, if he is one of the anarchistic classes made deportable by the act of October 16, 1918, as amended, he is to be deported regardless of whether he is or is not subject to deportation upon some other ground specified in the bill, and regardless of the fact that five years have elapsed since his entry.

ANARCHISTIC CLASSES

The bill, in rewriting section 19 of the 1917 act and in enumerating the grounds for deportation, omits that part of section 19 which places among the deportable classes aliens advocating or teaching anarchy or the overthrow by force or violence of the United States Government, etc. This is omitted because it has been superseded by the act of October 16, 1918, as amended by the act of June 5, 1920, which contains full and detailed provisions for the deportation of the anarchistic classes. These laws are not repealed by the bill.

ALIENS FROM INSULAR POSSESSIONS

The bill also omits another provision found in section 19 of the 1917 act, to the effect that the section (relating to the arrest and deportation of aliens) shall also apply "to the case of aliens who come to the mainland of the United States from the insular possessions thereof." This provision is omitted as surplusage. The provisions of section 19 as rewritten clearly make deportable any alien who falls within any of the classes there enumerated, regardless of where he came from. If the alien is in the continental United States he may be deported even though he may have come from a possession, and if he is in one of the possessions he may be deported even though he came from the United States.

MARRIAGE AS RELIEF FROM DEPORTATION

Section 19 of the 1917 act provides that the marriage to an American citizen of a woman of the sexually immoral classes deportable by law shall not confer citizenship if the marriage is solemnized after the arrest or after the commission of the acts making her liable to deportation. This provision was necessary at the time of the passage of the 1917 act, because at that time marriage of a woman to an American citizen made her an American citizen. Since the passage of the act of September 22, 1922, marriage no longer confers citizenship, and this provision of the 1917 act is omitted as surplusage. It is not necessary to provide that this class of women can not be naturalized, for the naturalization laws already require good moral character as a condition precedent to naturalization.

PART III.—PROCEDURE IN ARREST AND DEPORTATION CASES

ARREST, HEARING, AND ORDER OF DEPORTATION

The existing law contains no rule as to carrying on the proceedings for the arrest and deportation of undesirable aliens. It merely provides that the deportable alien shall, "upon the warrant of the Secretary of Labor, be taken into custody and deported." Under the system put into effect by regulations various immigration officials in the field having reason to believe that an alien is deportable apply to the Secretary of Labor at Washington for a warrant of arrest. In as much as it is impossible for the Secretary to know whether or not the facts presented are sufficient to justify an arrest, it has become the practice in nearly every case to issue a warrant of arrest whenever applied for from the officer in the field. All this takes time and seems to the committee a useless waste of time and money. The bill, therefore, provides (in subdivision (d) of section 19 of the 1917 act as amended by the bill) for the issuance of warrants of arrest either by the Commissioner General of Immigration or by any official authorized by the Commissioner General of Immigration to issue warrants of arrest.

In as much as the Constitution affords aliens as well as citizens due process of law, it seemed to the committee that the statute itself should give the right to notice and hearing. On the other hand, the committee felt that the procedure should be as simple and non-technical as possible. The bill therefore provides that the alien shall be given a hearing before an immigrant inspector, who shall transmit the evidence to the Secretary of Labor. The Secretary is to make an order either releasing the alien or ordering his deportation, but the Secretary's decision is to be based solely on the evidence taken at the hearing, except that he may send the case back for the taking of additional evidence or order the case reheard by another immigrant inspector.

In order to avoid technical objections based upon the insufficiency of grounds stated in the warrant of arrest, and at the same time to show clearly the legislative intent that the alien is not to be deported until he has had notice and hearing upon the grounds upon which he is deported, the bill provides that the order of deportation shall

refer to the particular provisions of law under which the alien is ordered deported, and shall briefly state the grounds upon which such provisions are applicable to the alien. It is then provided that the alien shall not be deported unless he was afforded, at the hearing before the immigrant inspector, an opportunity after notice to be heard upon the grounds stated in the order of deportation. This means, for example, that if in the warrant of arrest or in the course of the proceedings six charges are brought against the alien and he is given an opportunity to be heard after notice on only two of the six charges, the order of deportation will be valid if it states that he is deported upon either or both of the grounds as to which he was given notice and hearing, but will be void if it states that he is deported on any of the four grounds as to which he has not been given notice or hearing.

The bill provides, as does the existing law, that the decision of the Secretary of Labor in every case of deportation shall be final. This provision has been considered by the Supreme Court as meaning that the decision of the Secretary is final only if the alien has in fact had due process of law, but the court has refused to overturn the decision of the Secretary unless it appears, (1) that his action has been arbitrary, or (2) that there is no evidence on which to support the finding, or (3) that the alien has not had proper notice and opportunity to be heard, or (4) that the Secretary has misconstrued the law. In no case does the court have the right to review the evidence for the purpose of determining whether or not the weight of evidence supports the finding of the Secretary. If there is evidence in support of his finding, the court will sustain it even though, were the matter before the court originally, the court would have reached a conclusion opposite to that which the Secretary has reached. The arrested person has the right to a judicial determination of his claim of citizenship, unless such claim is plainly frivolous.

The system as outlined adequately protects the rights of the alien to the fullest extent possible under any system which is administratively practicable, it being remembered that, from the nature of the case, the proceedings must be expeditious and free from the burdensome requirements necessary to a judicial proceeding. The careful examination of the record and of the law in the department, which will be necessary before the order of deportation is issued, will relieve the courts in habeas corpus proceedings of any necessity of a detailed examination of the proceedings at the hearing to determine whether or not the alien has been afforded due notice and opportunity to be heard on numerous charges which, as a matter of fact, have never entered into the decision of the Secretary.

BURDEN OF PROOF

(e) Whenever for the purposes of this section it is necessary to determine the time at which an alien entered the United States, the burden of proof shall be upon such alien of showing at what time such entry took place, but in presenting such proof he shall be entitled to the production of his immigration visa, or of other documents concerning such entry, in the custody of the Department of Labor.

In a large number of deportation proceedings the time at which the alien, sought to be deported, entered the United States is a material question. With the burden upon the United States to

prove the time of entry, such alien may, by remaining mute and refusing to give any information with reference to the time of entry, render it exceedingly difficult and in some instances perhaps impossible for the Government to ascertain the time of his entry. The time of his entry is within the knowledge of the alien and the committee believes that no undue hardship is imposed upon the alien, sought to be deported, by requiring him to furnish proof as to the time of his entry. The alien's right in this matter has been protected by the provision that the alien, in presenting such proof "shall be entitled to the production of his immigration visa, if any, or of other documents concerning such entry in the custody of the Department of Labor."

RELEASE UNDER BOND

Subdivision (f) of the proposed new section 19 is a revision of the last sentence of section 20 of the existing law. Under this provision an alien taken into custody for deportation may be released under a bond in the penalty of not less than $1,000, whereas under the existing law the amount of the penalty is $500. The existing law provides that there shall also be furnished "surety approved by the Secretary of Labor." The provision in the bill is that "such bond shall have surety approved, under regulations prescribed by the Commissioner General of Immigration with the approval of the Secretary of Labor, (1) by the Commissioner General of Immigration, or (2) by any official authorized by the Commissioner General of Immigration to approve such bonds." This administrative change in the handling of bonds and sureties will eliminate the present practice of requiring the approval of the Secretary of Labor in the thousands of individual cases and will also expedite the release of the arrested alien by authorizing the approval of such bonds and sureties by officers in the field. The Secretary of Labor it is believed, retains just as effectively, through the power to approve regulations, the same control over the kind of bond or surety as he now exercises by approving the bond in each instance. The subdivision contemplates, of course, that an alien may not be released at all without giving a bond, which in no case shall be in an amount less than $1,000, and presupposes that the surety shall in each case be of a character which will assure the appearance of the alien when required.

PROCEDURE IN CASE OF ALIEN SEAMEN

Section 34 of the immigration act of 1917 reads as follows:

SEC. 34. That any alien seaman who shall land in a port of the United States contrary to the provisions of this act shall be deemed to be unlawfully in the United States, and shall, at any time within three years thereafter, upon the warrant of the Secretary of Labor, be taken into custody and brought before a board of special inquiry for examination as to his qualifications for admission to the United States, and if not admitted said alien seaman shall be deported at the expense of the appropriation for this act as provided in section twenty of this act.

It will be noticed that this section (1) places a statute of limitation of three years from the time of landing upon the deportation of alien seamen, (2) affords a seaman a right to be heard before a board of special inquiry, and (3) apparently allows his admission unless he is

at the time of such hearing a member of one of the excluded classes. No reason was apparent to your committee why a seaman should be granted any of these privileges, which are not granted to any other class of aliens, and it is therefore provided in the bill (subdivision (b) of section 7) that this section be repealed. The effect of this repeal will be to place the seaman upon the same plane as any other alien so far as the procedure in deportation cases is concerned.

PAYMENT OF EXPENSES

Subdivisions (g) and (h) of the proposed new section 19 constitute a revision, with certain changes, of that part of section 20 of the existing law relating to the expenses of the deportation of aliens who are arrested and deported. Under the bill if the alien was unlawfully induced to enter the United States, his deportation, including the entire cost of removal to the port of deportation, shall be at the expense of the contractor, procurer, or other person by whom he was unlawfully induced to enter the United States, whereas under the existing law his deportation, including only one-half of the entire cost of removal to the port of deportation, is at the expense of such person. Under the provisions of the bill the owner, agent, or consignee of the vessel or transportation line by which an alien came to the United States must bear the expense of the deportation of such alien from the port of deportation to the place designated under subdivision (a) of section 20 unless (1) the deportation is made by reason of causes arising subsequent to entry (such as the commission of crime after entry), or (2) deportation proceedings are begun later than five years after the entry of the alien and it can not be shown that the owner, agent, or consignee of the vessel bringing such alien knew or could have known by the exercise of reasonable diligence that the alien would be subject to deportation, or (3) there is a contractor, procurer, or other person who unlawfully induced such alien to enter the United States and from whom the Government has collected the expenses of deportation, including the cost of removal to the port. The bill provides that where liability for the expense of deportation can not be ascertained or enforced, or where no liability for such expense is imposed by law, such expense shall be payable by the Government.

PART IV.—EXCLUSION AND DEPORTATION

TIME AND MEANS OF DEPORTATION

Section 18 of the existing law provides that aliens brought in in violation of law shall be immediately sent back unless, in the opinion of the Secretary of Labor, immediate deportation is not practicable or proper. The proposed amendment provides for immediate deportation with discretion vested in no person to suspend the deportation except: (1) Where a diseased alien seaman is placed in a hospital; (2) where it would cause unusual hardship or suffering to deport an excluded alien before hospital treatment; (3) where the testimony of an excluded alien is necessary in the interests of the United States. If it is not practicable or proper to deport the alien

on the vessel bringing him (as, for example, where the vessel has departed before the determination of the alien's inadmissibility, or where the vessel which brought the alien from one country is destined on the return trip to other places), he is to be deported on a vessel owned or operated by the same interests, unless that is not practicable or proper (as where there is no other such vessel or too long a time will elapse before its arrival, or for other reasons satisfactory to the immigration official in charge at the port of arrival), in which case he is to be otherwise deported. Under subdivision (d) of section 18, the expense of deportation in all cases is put upon the owner, agent, or consignee of the vessel bringing such alien.

EXCLUSION AND DEPORTATION OF SEAMEN

Under the present law, only two classes of alien seamen can be excluded and deported at the time of arrival. Seamen generally are subject to the same grounds for deportation after arrival in the country, upon warrant of arrest and order of the Secretary of Labor, as other aliens. But, in order to be able to exclude and deport a seaman at the time of arrival, under the present law it must be shown either (1) that he is not a bona fide seamen, or (2) that he is afflicted with certain dangerous mental or physical diseases or disorders which can not be cured within a reasonable time. If he is subject to exclusion for any other reason, he nevertheless must be permitted to land temporarily for the purpose of reshipping foreign. In order to secure proper conditions for seamen deported on one of the two above grounds, and also as a means of preventing the bringing to the United States of such aliens by vessels as members of their crews, it is provided in the bill (as a part of subdivision (a) of section 18 of the 1917 act as amended by the bill) that in no case shall an alien employed on board a vessel be deported on that vessel, or on any vessel owned or operated by the same interests, unless it appears to the immigration officials that deportation in any other manner would be impracticable. The insertion of this provision makes necessary the rewriting of section 20 of the immigration act of 1924, which section is amended by section 6 of the bill so as to remove from that section the provision of existing law which makes it the duty of the vessel to detain on board and deport an alien seaman, if so ordered by immigration officials. Section 20 of the act of 1924, as rewritten, also omits the provision found in the existing law authorizing the Secretary of Labor to cause a seaman to be deported on a vessel other than the one which brought him if he finds it will cause undue hardship. There is omitted, also, the existing subdivision (b) of section 20 of the 1924 act providing that proof that an alien seaman did not appear upon the outgoing manifest of the vessel, or that he was reported by the master as a deserter, shall be prima facie evidence of failure to deport after requirement by immigration officials. Since the penalty, which the section imposes upon the owner and master of the vessel, is an administrative fine, liability to which is determined by the Secretary of Labor, and which is enforced by denial of clearance (see Oceanic Steam Navigation Co. *v.* Stranahan, 214 U. S. 320) it is not apparent why there should be any necessity for a rule of prima facie evidence. If the Secretary is satisfied that the vessel has not performed its duty, liability to the fine is imposed by the law

In rewriting section 20 of the 1924 act there is inserted a new subdivision providing that an alien employed on a vessel may be removed to an immigration station or other appropriate place for examination under the same conditions in respect of such removal as in the case of any other alien. Probably the present law imposes such a duty upon the vessel, but the immigration officials have encountered opposition in certain cases, and it is desirable to have the law made definite beyond a doubt.

ACCOMPANYING ALIENS

Subdivision (b) of section 18 is a revision of the last proviso of the same section in the existing law. It provides that if an alien who is excluded is accompanied by another alien whose protection or guardianship is required the accompanying alien may also be excluded and deported. The existing law adds a provision that the vessel shall be required to return him in the same manner as in the case of other rejected aliens. This language is omitted as surplusage, since the bill provides in another place for placing the expense of deportation upon the vessel upon which any excluded alien has come. Since the accompanying alien is by law made an excluded alien, no particular imposition of liability is necessary at this point.

HOSPITALIZATION OF DISEASED ALIEN SEAMEN

The act of December 26, 1920, entitled "An act to provide for the treatment in hospital of diseased alien seamen" (printed in full in Appendix C) provides that "alien seamen" found on arrival in ports of the United States to be afflicted with certain disabilities or diseases shall be placed in a hospital and treated at the expense of the vessel. If it appears to the satisfaction of the immigration official in charge that it will not be possible to effect a cure within a reasonable time, the act provides that "the return of the alien seamen shall be enforced on or at the expense of the vessel on which they came." The Circuit Court of Appeals for the Second Circuit decided in the case of New York & Cuba Mail S. S. Co. *v.* U. S. (297 Fed. 158) that the act does not apply to aliens employed upon vessels of American registry. This is contrary to the intention of the act, and the case was reversed by the Supreme Court on December 14, 1925. The present bill repeals this act and rewrites it (subdivision (c) of section 18 of the immigration act of 1917 as amended by the bill) so as to remove any possible doubt on the question. It is provided that aliens employed on board any vessel who are certified by a Public Health Service officer to be afflicted with certain dangerous mental and physical disorders and diseases are to be placed in a hospital for treatment at the expense of the vessel. Upon cure the alien is to be permitted to enter the United States temporarily under the same conditions and limitations as if the vessel had arrived on the date of his discharge from the hospital, but if it appears that he can not be cured within a reasonable time he is to be deported at the expense of the vessel.

COST OF MAINTENANCE OF EXCLUDED ALIEN

Subdivision (d) of section 18 affirmatively imposes upon the owner, agent, or consignee of the vessel bringing an alien not found to be entitled to enter the United States, the cost of his maintenance while temporarily removed from such vessel, while pending examination for admission or pending deportation after having been found to be inadmissible, or while deportation is suspended to permit hospital treatment for sickness or mental or physical disability where immediate deportation would cause unusual hardship or suffering (including medical and hospital treatment, and burial expenses not to exceed $125 in case of death), and the cost of his deportation. This subdivision also places upon the owner, agent, or consignee of a vessel bringing a diseased alien seaman all such costs incurred in respect of such seaman.

This subdivision also authorizes (but does not require) the immigration official in charge at the port of arrival, under regulations, to require the owner, agent, or consignee of any vessel bringing aliens to the United States to give bond that all costs accruing on account of such aliens shall be paid, and where bond is required clearance shall not be granted until it is given, unless a sum equal to the estimated amount of costs is deposited with the collector of customs. Additional bond or sums may be required from time to time and enforced against such vessel or any other vessel owned or operated by the same interests. With no such protective provision in the existing law, the Government has in some cases been forced to bear the expense of the maintenance of aliens due to a failure of the steamship companies to pay their bills, followed by the bankruptcy of such companies. If found necessary, the giving of a blanket bond covering all aliens brought in by a company during any specified period might be permitted in lieu of separate bonds for each trip.

PART V.—PROVISIONS COMMON TO EXCLUSION AND ARREST

PLACE TO WHICH DEPORTED

Section 20 of the existing law states:

> That the deportation of aliens provided for in this act shall, at the option of the Secretary of Labor, be to the country whence they came or to the foreign port at which such aliens embarked for the United States; or, if such embarkation was for foreign contiguous territory, to the foreign port at which they embarked for such territory; or, if such aliens entered foreign contiguous territory from the United States and later entered the United States, or if such aliens are held by the country from which they entered the United States not to be subjects or citizens of such country, and such country refuses to permit their reentry, or imposes any condition upon permitting reentry, then to the country of which such aliens are subjects or citizens, or to the country in which they resided prior to entering the country from which they entered the United States.

The proposed new section 20 attempts to restate these provisions in a more orderly manner and enlarges the number of places to which the alien may be deported. Instead of leaving the destination of a deported alien in the option of the Secretary of Labor, the bill provides that the destination shall be specified under regulations prescribed by the Commissioner General of Immigration, with the approval of the Secretary of Labor.

The bill provides that in the case of an alien entering from foreign contiguous territory, he may be deported to such territory, or to the country of which he is a citizen or subject, or to the foreign port at which he embarked for such territory (irrespective of whether he has acquired a domicile in such territory), whereas under the existing law the only place specified in such a case is to the foreign port at which he embarked for such territory. In any case, an alien may be deported to the country (if any) in which he resided prior to entering the country from which he embarked for the United States or for foreign contiguous territory in lieu of deportation to the country of which he is a citizen or subject, or the foreign port at which he embarked for the United States or for foreign contiguous territory, or to such territory if he has entered therefrom. Under existing law, deportation into such a country is conditioned upon the refusal of the country from which such alien entered the United States to receive back the alien, either absolutely or conditionally, whereas the proposed bill removes such condition.

EMPLOYMENT OF ATTENDANTS

Subdivision (b) of the proposed new section 20 is a revision of the last proviso in section 20 of the existing law, but is expanded to provide that when, in the opinion of the Secretary of Labor, the mental or physical condition of an excluded alien is such as to require personal care and attention, he shall in such case, when necessary, as also in the case of an alien arrested and ordered deported, employ a suitable person for that purpose, who shall accompany such alien to his final destination, and the expense incident to such service shall be defrayed in the same manner as the expense of deporting the accompanying alien is defrayed. This would, of course, mean that a steamship company bringing an inadmissible alien who would require personal care and attention upon the return voyage would be obliged to defray the expenses of the accompanying person.

SUSPENSION OF DEPORTATION FOR DISABILITY

Subdivision (c) of the proposed new section 20 is intended to replace the following provisions in section 18 of the existing law:

> No alien certified, as provided in section 16 of this act, to be suffering from tuberculosis in any form, or from a loathsome or dangerous contagious disease other than one of quarantinable nature, shall be permitted to land for medical treatment thereof in any hospital in the United States, unless the Secretary of Labor is satisfied that to refuse treatment would be inhumane or cause unusual hardship or suffering, in which case the alien shall be treated in the hospital under the supervision of the immigration officials at the expense of the vessel transporting him: *Provided further*, That upon the certificate of an examining medical officer to the effect that the health or safety of an insane alien would be unduly imperiled by immediate deportation, such alien may, at the expense of the appropriation for the enforcement of this act, be held for treatment until such time as such alien may, in the opinion of such medical officer, be safely deported.

The bill provides that if it appears to the satisfaction of the Secretary of Labor that immediate deportation in the case of an alien who is arrested and ordered deported, as well as in the case

of an alien excluded, before hospital treatment for sickness or mental or physical disability, would cause unusual hardship or suffering, he may suspend temporarily the deportation of such alien solely for the purpose of placing him in a hospital. As the existing law is worded, an alien "suffering from tuberculosis in any form or from a loathsome or dangerous contagious disease other than one of quarantinable nature" shall not be permitted to land for medical treatment unless the Secretary of Labor is satisfied that it would be inhumane to refuse treatment or cause unusual hardship or suffering. Nothing is said as to other cases of illness where the element of contagion is absent. Since many cases of sickness and disability other than from causes specified in the existing law arise where it would be equally inhumane to deport before hospital treatment, it is thought that the provision should be broad enough to cover all such cases and also that the benefit of this provision should be affirmatively afforded to persons who are arrested and deported as well as to excluded aliens. The term "sickness, mental or physical disability" is the same as used in the case of an excluded alien under subdivision (b) of section 18. The term "inhumane" is omitted as surplusage, since if it would cause unusual hardship or suffering to deport immediately, naturally it would be inhumane to deport.

The provision in existing law "that no alien * * * shall be permitted to land for medical treatment * * * in any hospital in the United States," unless the Secretary finds that it would be inhumane to refuse treatment, in which case the alien shall be treated in the hospital under the supervision of immigration officials, gives rise to the inference that an excluded alien, when permitted by the Secretary to land temporarily for treatment, might choose "any hospital in the United States." The provision in the bill omits such a broad general reference and provides that deportation may be suspended temporarily solely for the purpose of placing such alien "in a hospital under the supervision of immigration or United States Public Health Service officials." There are some places where it is not practicable for the immigration officials to have direct supervision over the treatment of such aliens in hospitals, and the provision adding the term "United States Public Health Service officials" is added to take care of this situation. Specific reference to the case of an insane alien is omitted and the term "mental disability" is intended to cover such case. No good reason is seen for a different standard to be set up in the case of the insane alien as distinguished from other cases of sickness or disability which would cause unusual hardship or suffering, nor does there seem to be any foundation for holding the insane alien for treatment at the expense of the Government while the diseased alien is held at the expense of the vessel bringing him. The provision in the bill, therefore, puts the expense of maintenance and treatment of all excluded aliens, whether diseased or insane, at the expense of the owner, agent, or consignee of the vessel bringing him, and the expense of the treatment of the alien arrested and ordered deported is to be defrayed in the same manner as the cost of removal to the port of deportation, which means at Government expense in most cases, the exception being where there is a procurer or other such person. Deportation is to be suspended only until such time as in the opinion of the Secretary of Labor the sickness or disability has been relieved to the extent

that the deportation of such alien would not cause unusual hardship or suffering.

TESTIMONY OF DEPORTEE NECESSARY TO UNITED STATES

Subdivision (d) of the proposed new section 20 is a revision of the provision in section 18 of the existing law which permits the Commissioner General of Immigration, with the approval of the Secretary of Labor, to suspend deportation where the testimony of such alien is necessary on behalf of the United States in the prosecution of offenders against the immigration act of 1917 or other laws of the United States. The provision in the bill expands the provision so that it will be applicable also to the alien who is arrested and ordered deported, and provision is made for the suspension of the deportation where the testimony of the alien is "necessary in the interests of the United States in any judicial or other proceeding." The provision is thus extended to permit the detention of a deportable alien where he is needed in the interests of the United States in any kind of a proceeding. Where the alien is held in the custody of the Government officials, the provision in the bill makes it clear that the United States is to pay all the costs of maintenance and pay to the alien the witness fee now provided by law. These expenses are paid from the appropriation for the enforcement of the immigration laws, except that the Department of Justice appropriation is chargeable where deportation is suspended at the request of that department. Where it is feasible to release the alien under bond when he is held as a wintess, it is provided that the cost of his maintenance shall not be borne by the United States.

PENAL PROVISIONS

Subdivisions (e) and (f) of the proposed new section 20 constitute a combination and revision of, and additions to, the penal provisions contained in sections 18 and 20 of the 1917 act.

Changes are made in the penalties to conform to the proposed changes made in other parts of the law. For instance, subdivision (a) of section 20 specifies various places to which excluded aliens may be deported. The penal provision in the bill, therefore, makes it unlawful for the person in charge, etc., of any vessel to fail or refuse to transport such aliens "to the place designated" (under regulations prescribed by the Commissioner General of Immigration, with the approval of the Secretary of Labor) instead of simply "to the foreign port from which they came," as the existing law provides. The penalty for failure "to pay the costs imposed in pursuance of law in respect of any alien" is intended to cover all costs of maintenance, hospitalization, deportation, and all other expenses which are imposed by law upon the owner, agent, or consignee, etc., of any vessel. Section 15 of the act of 1917 provides that "the immigration officials may order a temporary removal" of arriving aliens for examination at a designated time and place. The provision of the bill includes a penalty for failure by the person in charge, etc., of any vessel to remove such aliens, or to detain them on board, as the immigration officials may order.

The existing law provides a penalty for any person in charge, etc., of a vessel "knowingly to bring to the United States at any time within one year from the date of deportation any alien rejected or arrested and deported under any provision of this act [of 1917] unless prior to reembarkation the Secretary of Labor has consented that such alien shall reapply for admission." The provision in the bill provides a penalty for the person in charge, etc., of a vessel "knowingly to bring to the United States any alien excluded or arrested and deported under any provision of law until such time as such alien may be lawfully entitled to enter the United States." There appears to be no reason why the person in charge, etc., of a vessel should not be penalized for knowingly bringing an alien who has been deported so long as it is unlawful for him to reenter the United States. This means that in the case of an alien arrested and deported it is unlawful for him to return at all, and in the case of an alien excluded and deported it is unlawful for him to return within one year from the date of such deportation unless the Secretary of Labor has, prior to the expiration of the year, consented to his reapplying for admission.

The amount of the penalty for each violation is increased from $300 to $1,000. The duties imposed are of an imperative nature and are such as could and should be uniformly complied with. Instances have arisen where the owner of the vessel has found it cheaper to pay the fine than to comply with the law and has, therefore, simply refused to comply. There seems to be good ground for making the amount of the penalty sufficient to insure compliance with these provisions of law. An additional provision for securing the amount of the fines imposed is proposed by the bill. It would authorize the Government to forfeit any vessel by a proceeding by libel in rem in admiralty where the responsible person has failed to pay the fines imposed, within 10 days after their imposition, in respect of violations by the person in charge, etc., of such vessel or of any other vessel owned or operated by the same interests, and after clearance has been denied to such vessel for failure to pay the fines. Where there is any question as to liability to such fine, the present provision of law is retained whereby a sum sufficient to cover the fine may be deposited with the collector of customs pending the determination of the liability. A further provision is added that permits the Secretary of Labor to deny to any vessel or company persistently violating the provisions of subdivision (e) of the proposed section 20, the privilege of landing alien immigrant passengers at United States ports for such period as he deems necessary to secure a compliance with the law by such offenders.

Part VI.—Miscellaneous Provisions

READMISSION OF DEPORTED ALIENS

Under section 3 of the immigration act of 1917 one of the classes excluded from admission consists of persons who have been deported under any of the provisions of that act and who may again seek admission within one year unless they have obtained permission from the Secretary of Labor to reapply for admission. A serious situation has arisen, particularly on our land borders, whereby people deported to contiguous countries turn around and come back again without further penalty than exclusion or another deporta-

tion. No matter how serious the offense for which deported, an alien can under existing law, except in a few limited cases (as prostitutes, anarchists, and war-time offenders), if otherwise admissible, reenter the United States after one year from the date of his deportation and can apply to the Secretary for readmission at any time within that period. Subdivision (d) of section 10 of the bill retains so much of the provision of the present law referred to as applies to aliens who have been excluded on arrival and sent back. They, as heretofore, are prohibited from coming back within one year unless they have obtained the consent of the Secretary of Labor. Subdivision (a) of section 10, however, provides that if any alien has been arrested and deported he shall be excluded from admission to the United States, and imposes fine or imprisonment or both upon him if he enters or attempts to enter the United States. At the termination of the imprisonment he will be deported under paragraph (1) of subdivision (a) of section 19 of the 1917 act as rewritten by the bill.

Owing to the inadequacy of the appropriations now made for enforcement of deportation provisions under existing law, the Department of Labor has, in many cases, after a warrant of deportation has been issued, refrained from executing the warrant and deporting the alien, at the expense of the appropriation, to the country to which he might be deported, upon the condition that the alien voluntarily, at his own expense, leave the United States. Some doubt exists whether an alien so departing has been "deported." Subdivision (b) of section 10 of the bill therefore removes any possible doubt on this question by providing that in such cases the alien shall be considered to have been deported in pursuance of law.

Under the present law an alien seaman upon arrival in the United States, even though he belongs to one of the excluded classes (except in cases of certain dangerous mental and physical diseases and disorders and except in the case of aliens who are not bona fide seamen), is nevertheless not excludable as in the case of any other class of aliens, but is permitted to land temporarily for the purpose of reshipping foreign. If such a seaman stays beyond the time permitted by regulations made in pursuance of the law and is at a later date arrested and deported in pursuance of law, he may turn around and immediately return to the United States and upon arrival must again be permitted to land temporarily for the purpose of reshipping foreign. Thus he is afforded an opportunity of quitting his calling and again remaining in the United States beyond the time fixed by the law and regulations. To prevent this result it is provided in subdivision (c) of section 10 of the bill that an alien subject to exclusion from admission on the ground that he has once been deported shall, although employed as a seaman, be excluded and deported without being entitled to any of the landing privileges allowed by law to seamen.

PENALTY FOR UNLAWFUL ENTRY

Section 11 of the bill attempts to cure one of the defects of the present law by imposing a criminal penalty upon any alien who enters the United States at any time or place other than as designated by immigration officials, or eludes examination or inspection or obtains entry by a false or misleading representation, or a willful concealment of a material fact. Under the present law all that can

be done to such an alien is to deport him. It is believed that if the class of aliens who are endeavoring to enter the United States surreptitiously become aware that when detected they will be fined and imprisoned, as well as deported, the number who attempt to smuggle themselves or have themselves smuggled into the United States will be materially lessened. It should be noted that the punishment of fine or imprisonment is not in substitution for deportation. After the sentence has been served the alien will be deported, under paragraph (2) of subdivision (a) of section 19 of the act of 1917 as rewritten by the bill.

SECTION 33 OF THE IMMIGRATION ACT OF 1917

Section 32 of the immigration act of 1917 imposed a penalty upon the owner or master of a vessel for failure to detain alien seamen on board in certain cases. This section was repealed by the immigration act of 1924, the substance of it being incorporated in sections 19 and 20 thereof. Section 33 of the immigration act of 1917 provided that it should be unlawful and be deemed "a violation of the preceding section" to pay off or discharge any alien employed aboard any vessel arriving in the United States unless "duly admitted" pursuant to the immigration laws. It will be noted that, since section 32 of the act of 1917 has been repealed, there is no longer any "preceding section" to which section 33 can refer. Section 7 of the bill amends section 33 of the immigration act of 1917 by striking out the words "preceding section" and inserting in lieu thereof "section 20 of the immigration act of 1924," thus making the unlawful paying off or discharge of alien seamen a violation of section 20 of the immigration act of 1924, which provides appropriate penalties. Section 7 of the bill also amends section 33 of the 1917 act by inserting the words "for permanent residence" after the words "duly admitted," in order to make it clear that it is unlawful to pay off or discharge an alien seaman unless he has been duly admitted for permanent residence, but the bill does not (except as provided in section 10 of the bill, which is above explained in this report) disturb the provisions of section 33 of the 1917 act permitting an alien seaman to land for the purpose of reshipping foreign, and permitting his discharge for such purpose.

PENDING CASES

Section 9 of the bill provides that the act is not to affect any deportation proceeding in which the warrant of arrest has been issued before the enactment of the act. As pointed out previously, the provisions of existing law relating to deportation after conviction of crime have been greatly enlarged. The crimes to which the new provisions relate, however, are confined to crimes committed after the enactment of this act. Inasmuch as the old law is repealed, there might arise a case where a crime involving moral turpitude has been committed before the enactment of this act and hence conviction for this crime, no matter for what length of time the alien might be sentenced, could not constitute a ground for deportation. Section 9 of the bill therefore provides that the provisions of existing law regarding deportation after conviction for crime involving moral turpitude shall remain in force in cases where the crime was committed before the enactment of this act.

APPENDIX A

[H. R. 11489, Sixty-ninth Congress, first session]

A BILL To provide for the deportation of certain aliens, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this act may be cited as the "Deportation act of 1926."

SEC. 2. Section 19 of the act of February 5, 1917, entitled "An act to regulate the immigration of aliens to, and the residence of aliens in, the United States," is amended to read as follows:

"SEC. 19. (a) The following aliens shall be taken into custody and deported (whether their entry was before or after the enactment of the deportation act of 1926) by proceedings begun within the periods hereinafter in this subdivision specified:

"(1) An alien who at the time of entry was a member of one or more of the classes excluded by law from admission to the United States—at any time within five years after entry;

"(2) An alien who entered the United States at any time or place other than as designated by immigration officials, or who eluded examination or inspection, or who obtained entry by a false or misleading representation—at any time after entry, unless the entry was before July 1, 1924, in which case at any time within three years after entry;

"(3) An alien who remains in the United States for a longer time than authorized by law or regulations made under authority of law—at any time after entry, unless the entry was before July 1, 1924, in which case at any time within three years after entry;

"(4) An alien who at any time within seven years after entry is a public charge from causes not affirmatively shown to have arisen subsequent to entry—at any time after entry;

"(5) An alien who at any time within seven years after entry, from causes not affirmatively shown to have arisen subsequent to entry, is an idiot, imbecile, feeble-minded person, epileptic, insane person, person of constitutional psychopathic inferiority, or person with chronic alcoholism—at any time after entry;

"(6) An alien who is convicted of any offense (committed after the enactment of the deportation act of 1926 and within ten years after entry) for which he is sentenced to imprisonment for a term of one year or more—at any time after entry, but not after the expiration of three years after the termination of the imprisonment;

"(7) An alien who is convicted of any offense (committed after the enactment of the deportation act of 1926 and at any time after entry) for which he is sentenced to imprisonment for a term of one year or more, and who is thereafter convicted of the same or any other offense (committed after the enactment of the deportation act of 1926 and at any time after entry) for which he is sentenced to imprisonment for a term of one year or more—at any time after entry, but not after the expiration of three years after the termination of the imprisonment;

"(8) An alien who is convicted of any offense (committed after the enactment of the deportation act of 1926 and within ten years after entry) for which he is sentenced to imprisonment for a term which, when added to the terms to which sentenced under one or more previous convictions of the same or any other offense (committed after the enactment of the deportation act of 1926) amounts to eighteen months or more—at any time after entry, but not after the expiration of three years after the termination of the imprisonment;

"(9) An alien who has, after the enactment of the deportation act of 1926, violated or conspired to violate (A) the white slave traffic act, or any law amendatory of, supplementary to, or in substitution for, such act; or (B) any statute of the United States prohibiting or regulating the manufacture, production, compounding, possession, use, sale, exchange, dispensing, giving away, transportation, importation, or exportation of opium, coca leaves, or any salt, derivative, or preparation of opium or coca leaves—at any time after entry;

"(10) An alien who is found practicing prostitution or is an inmate of, or connected with the management of, a house of prostitution, or who receives, shares in, or derives benefit from, any part of the earnings of any prostitute, or who manages or is employed by, in, or in connection with, any house of prostitution or music or dance hall or other place of amusement or resort habitually frequented by prostitutes or where prostitutes gather, or who in any way assists

any prostitute, or protects or promises to protect from arrest any prostitute, or who imports or attempts to import any person for the purpose of prostitution, or for any other immoral purpose, or who enters for any such purpose, or who has been convicted and imprisoned for a violation of any of the provisions of section 4 hereof—at any time after entry;

"(11) An alien who willfully conceals or harbors, attempts to conceal or harbor, or aids, assists, or abets any other person to conceal or harbor, any alien liable to deportation, if the Secretary of Labor, after hearing, finds that he is an undesirable resident of the United States—at any time after entry;

"(12) An alien who willfully aids or assists in any way any alien unlawfully to enter the United States—at any time after entry.

"(b) No conviction shall serve as a basis for deportation proceedings under paragraph (6), (7), or (8) of subdivision (a) unless such conviction is in a court of record and the judgment on such conviction has become final. In the case of a sentence for an indeterminate term in which the minimum term under the sentence is less than one year, the term actually served shall, for the purposes of paragraphs (6), (7), and (8) of subdivision (a), be considered the term for which sentenced. An alien who has been unconditionally pardoned after conviction of an offense as specified in paragraph (6), (7), or (8) of subdivision (a) shall not be deported.

"(c) An alien sentenced to imprisonment shall not be deported under any provision of law until after the termination of the imprisonment. For the purposes of this section the imprisonment shall be considered as terminated upon the release of the alien from confinement, whether or not he is subject to rearrest or further confinement in respect of the same offense.

"(d) Proceedings for the deportation of aliens under this section or under any law providing for the arrest and deportation of aliens after entry into the United States shall be begun by taking the alien into custody under a warrant of arrest issued (1) by the Commissioner General of Immigration, or (2) by any official authorized by the Commissioner General of Immigration to issue warrants of arrest. Every alien so arrested shall be given a hearing under regulations prescribed by the Commissioner General of Immigration, with the approval of the Secretary of Labor, before an immigrant inspector designated under such regulations. The immigrant inspector shall, under such regulations, transmit the evidence taken at the hearing to the Secretary of Labor. The Secretary shall make an order releasing the alien or ordering his deportation, and his decision shall be based solely on the evidence taken at the hearing, except that he may send the case back to the immigrant inspector before whom the hearing was had for the taking of additional evidence, or order the case reheard by another immigrant inspector. The order of deportation shall refer to the particular provisions of law under which the alien is ordered deported and shall briefly state the grounds upon which such provisions of law are applicable to the alien, but it shall not be necessary to state or summarize the evidence in the order. No alien shall be deported unless before the issuance of the order of deportation he was afforded, at the hearing before the immigrant inspector, an opportunity to be heard after notice upon the grounds stated in the order of deportation. The decision of the Secretary of Labor in every case of deportation under the provisions of this act or of any law or treaty shall be final.

"(e) Whenever for the purposes of this section it is necessary to determine the time at which an alien entered the United States, the burden of proof shall be upon such alien of showing at what time such entry took place, but in presenting such proof he shall be entitled to the production of his immigration visa, if any, or of other documents concerning such entry, in the custody of the Department of Labor. If any alien is arrested under the provisions of this section on the ground that he is found in the United States in violation of any other law of the United States which imposes upon him in any proceedings not under this section the burden of proving his right to remain in the United States, such alien in proceedings under this section shall have the burden of proving his right to remain in the United States.

"(f) Pending final decision of the case of any alien taken into custody for deportation, he may be released under a bond in the penalty of not less than $1,000, conditioned that such alien will be produced whenever required by immigration officials. Such bond shall have surety approved, under regulations prescribed by the Commissioner General of Immigration with the approval of the Secretary of Labor, (1) by the Commissioner General of Immigration, or (2) by any official authorized by the Commissioner General of Immigration to approve such bonds.

"(g) Unless the deportation of an alien is made by reason of causes arising subsequent to entry, the owner, agent, or consignee of the vessel or transportation line by which such alien came to the United States shall (except as otherwise provided by subdivision (h)), bear the expense of the deportation of such alien from the port of deportation, if deportation proceedings are instituted within five years after the entry of the alien, or, irrespective of the time of institution of such proceedings, if it can be shown that such owner, agent, or consignee knew or could have known by the exercise of reasonable diligence that such alien would be subject to deportation. Where liability for the expense of deportation can not be ascertained or enforced, or where no liability for such expense is imposed by law, such expense shall be payable from the appropriation for the enforcement of this act.

"(h) If any alien was unlawfully induced to enter the United States, the deportation of such alien, including the entire cost of removal to the port of deportation, shall be at the expense of the contractor, procurer, or other person by whom such alien was unlawfully induced to enter the United States, or, if that can not be done, the cost of removal to the port of deportation shall be at the expense of the appropriation for the enforcement of this act, and the deportation from such port, if deportion proceedings are instituted within five years, shall be at the expense of the owner, agent, or consignee of the vessel or transportation line by which such alien came.

"(i) If any alien is liable to deportation upon any ground and within the period specified in any paragraph of this section, he shall be deported whether or not he is liable to deportation upon a ground and within the period specified in any other paragraph or section of this act or in any other law, and any alien who is liable to deportation upon a ground and within the period specified in any law other than this act shall be deported whether or not he is liable to deportation upon a ground and within the period specified in this act."

SEC. 3. Section 18 of such immigration act of 1917 is amended to read as follows:

"SEC. 18. (a) Every alien who upon arrival in the United States is not found to be entitled to enter the United States shall be excluded, and deported in accommodations of the same class as in which he arrived. Deportation shall be immediate unless the deportation of such alien is suspended in pursuance of subdivision (c) of this section or subdivision (c) or (d) of section 20. Deportation shall be on the vessel bringing such alien to the United States, unless it appears to the satisfaction of the immigration official in charge at the port of arrival that deportation on such vessel is not practicable or proper, in which case deportation shall be on a vessel owned or operated by the same interests, unless it appears to the satisfaction of such official that deportation on such a vessel is not practicable or proper, in which case deportation shall be made otherwise. No alien employed on board a vessel arriving in the United States shall in any case be deported on such vessel or on any vessel owned or operated by the same interests, unless it appears (under regulations prescribed by the Commissioner General of Immigration, with the approval of the Secretary of Labor) to the satisfaction of the immigration official in charge at the port of arrival that deportation in any other manner would be impracticable.

"(b) If an excluded alien, certified by an examining medical officer to be helpless on account of sickness, mental or physical disability, or infancy, is accompanied by another alien whose protection or guardianship is required by such excluded alien, such accompanying alien may also be excluded and deported in the same manner as if personally subject to exclusion and deportation.

"(c) An alien employed on board any vessel arriving at a port of the United States who is certified by a medical officer of the United States Public Health Service to be afflicted with idiocy, imbecility, insanity, epilepsy, tuberculosis in any form, or a loathsome or dangerous contagious disease, shall be placed in a hospital designated by the immigration official in charge at the port of arrival for treatment at the expense of the owner, agent, or consignee of the vessel without deduction from his wages then earned. Upon certification by such a medical officer that the alien has been cured, he shall be permitted to enter the United States temporarily under the same conditions and limitations as if the vessel had arrived on the day of his discharge from the hospital; but if it appears to the satisfaction of the immigration official in charge at the port of arrival that it will not be possible within a reasonable time to effect a cure, such alien shall be deported subject to the same conditions and limitations as in the case of any other alien subject to exclusion and deportation by reason of being afflicted with such disability or disease, except as otherwise provided in subdivision (a).

"(d) The cost of the maintenance of every alien removed from the vessel bringing him, pending examination for admission to the United States, or pending deportation when he has been ordered deported, or while deportation is suspended under subdivision (c) of section 20, or while he is in hospital under the provisions of subdivision (c) of this section, including in all the above cases medical and hospital treatment, and burial expenses not to exceed $125 in case of death, the cost of his removal to and from the vessel, and the cost of his deportation, shall (except as otherwise provided by subdivision (c) or (d) of section 20) be borne by the owner, agent, or consignee of the vessel bringing him. If any vessel bringing aliens to the United States attempts to depart while the status of aliens brought by it remains undetermined or while the deportation of any such alien is suspended, the immigration official in charge at the port of arrival may, under regulations prescribed by the Commissioner General of Immigration with the approval of the Secretary of Labor, require the owner, agent, or consignee of such vessel to give bond to the United States in an amount estimated by such immigration official to be necessary to cover all such costs, with surety to secure the payment thereof approved by the collector of customs, conditioned that such costs shall be duly paid, and no such vessel shall be granted clearance until such bond is given or a sum equal to the estimated amount of costs is deposited with the collector of customs. Such immigration official may from time to time require such additional bond or sums as he estimates may be necessary to cover such further costs as may accrue. If the vessel has been granted clearance, such vessel, if subsequently arriving in a port of the United States, or any other vessel owned or operated by the same interests, may, subject to the same conditions, be denied clearance. If the owner, agent, or consignee of a vessel fails or refuses to pay promptly all such costs, such costs may be paid from the appropriation for the enforcement of this act and recovered by the United States from the owner, agent, or consignee of such vessel."

SEC. 4. Section 20 of such immigration act of 1917 is amended to read as follows:

"SEC. 20. (a) The deportation of aliens excluded or arrested and ordered deported shall, under regulations prescribed by the Commissioner General of Immigration with the approval of the Secretary of Labor, be (1) to the country of which such aliens are citizens or subjects, or to the foreign port at which such aliens embarked for the United States, or (2) if such aliens entered from foreign contiguous territory, then to such territory, or to the country of which such aliens are citizens or subjects or to the foreign port at which they embarked for such territory, irrespective of whether such aliens have acquired a domicile in such territory, or (3) if such aliens entered foreign contiguous territory from the United States, and later reentered the United States, then to such territory, or to the country of which such aliens are citizens or subjects or to the foreign port at which they originally embarked for the United States, irrespective of whether such aliens have acquired a domicile in such territory. In lieu of any country specified above, such aliens may, under such regulations, be deported to the country (if any) in which they resided prior to entering the country from which they embarked for the United States or for foreign contiguous territory. The term "foreign port," as used in this subdivision, includes a port of an insular possession of the United States.

"(b) When, in the opinion of the Secretary of Labor, the mental or physical condition of an alien who is excluded or arrested and ordered deported is such as to require personal care and attendance, he shall, when necessary, employ a suitable person for that purpose, who shall accompany such alien to his final destination, and the expense incident to such service shall be defrayed in the same manner as the expense of deporting the accompanied alien is defrayed.

"(c) If it appears to the satisfaction of the Secretary of Labor, in the case of any alien excluded or arrested and ordered deported, that immediate deportation before hospital treatment for sickness or mental or physical disability would cause unusual hardship or suffering, he may suspend temporarily the deportation of such alien solely for the purpose of placing him in a hospital under the supervision of immigration or United States Public Health Service officials for treatment, until such time as, in his opinion, such sickness or disability has been relieved to such an extent that the deportation of such alien would not cause unusual hardship or suffering. In the case of an alien subject to deportation under subdivision (a) of section 18, such treatment shall be at the expense of the owner, agent, or consignee of the vessel bringing him, and in the case of an alien arrested and ordered deported, it shall be defrayed in the same manner as the cost of removal to the port of deportation.

"(d) The Commissioner General of Immigration, upon conditions prescribed by him, may, with the approval of the Secretary of Labor, suspend the deportation of any alien subject to exclusion or deportation if, in his judgment, the testimony of such alien is necessary in the interests of the United States in any judicial or other proceeding. The cost of the maintenance of any such alien (including medical and hospital treatment, and burial expenses not to exceed $125 in case of death), and a witness fee of $1 per day to such alien for each day while deportation is so suspended, may be paid from the appropriation for the enforcement of this act unless such suspension of deportation is requested by the Department of Justice, in which case such cost and witness fee shall be paid from the appropriation for the Department of Justice. During such suspension of deportation the alien may be released under bond, in the penalty of not less than $500, with surety approved in the same manner as provided in subdivision (f) of section 19, conditioned that such alien shall be produced when required as a witness and for deportation, and while so released the cost of his maintenance shall not be borne by the United States.

"(e) It shall be unlawful for any master, purser, person in charge, agent, owner, charterer, or consignee of any vessel to refuse or fail to receive or detain on board, and transport in the manner specified, and to the place designated, any alien ordered to be deported on such vessel in pursuance of law; or to fail to pay the costs imposed in pursuance of law in respect of any alien; or, in bringing any alien to the United States, to make any charge for the return of such alien or to take any security for the payment of such charge, or to take any consideration to be returned in case the alien is landed, or to fail to detain on the vessel or to remove temporarily such alien for examination, as ordered by immigration officials; or knowingly to bring to the United States any alien excluded or arrested and deported under any provision of law until such time as such alien may be lawfully entitled to enter the United States.

"(f) If it appears to the satisfaction of the Secretary of Labor that such master, purser, person in charge, agent, owner, charterer, or consignee of any vessel has violated any of the provisions of subdivision (e) or of section 15, the master, purser, person in charge, agent, owner, charterer, or consignee of such vessel or of any vessel owned or operated by the same interests, shall pay to the collector of customs of the district in which any such vessel may be found, the sum of $1,000 for each violation of any such provision. No such vessel shall be granted clearance pending the determination of such liability, or while such fine remains unpaid, except that clearance may be granted prior to the determination of such question upon the deposit with the collector of customs of a sum sufficient to cover the fine imposed. No such fine shall be remitted or refunded. If clearance has been refused and the amount of the fine imposed has not been paid within ten days after such imposition, the vessel may be forfeited by a proceeding by libel in rem in admiralty. If it appears to the satisfaction of the Secretary of Labor that the provisions of subdivision (e) are persistently violated by or on behalf of any vessel or transportation company, the Secretary shall deny to such vessel or company the privilege of landing alien immigrant passengers at United States ports for such period as in his judgment may be necessary to insure an observance of such provisions."

SEC. 5. The first sentence of the second paragraph of section 9 of such immigration act of 1917, as amended, is amended by striking out the words "the last proviso" and inserting in lieu thereof the words "subdivision (b)". The last two sentences of section 15 of such immigration act of 1917 are repealed. Such immigration act of 1917 is further amended by adding at the end thereof a new section to read as follows:

"SEC. 39. That this act may be cited as the 'Immigration act of 1917.' "

SEC. 6. (a) Subdivisions (a), (b), and (c) of section 20 of the immigration act of 1924 are amended to read as follows:

"SEC. 20. (a) It shall be the duty of the owner, charterer, agent, consignee, or master of every vessel arriving in the United States from any place outside thereof to detain on board every alien employed on such vessel until the immigration officer in charge at the port of arrival has inspected such alien, such inspection in all cases to include a personal physical examination by the medical examiners. If it appears to the satisfaction of the Secretary of Labor that the owner, charterer, agent, consignee, or master has violated this provision, such owner, charterer, agent, consignee, or master shall pay the collector of customs of the district in which the port of arrival is located the sum of $1,000 for each alien in respect of whom such failure occurs. No vessel shall be granted clearance pending the determination of the liability to the payment of such fine, or while

such fine remains unpaid, except that clearance may be granted prior to the determination of such question upon the deposit with the collector of customs of a sum sufficient to cover the fine imposed. No such fine shall be remitted or refunded.

"(b) An alien employed on any vessel arriving in the United States from any place outside thereof may be removed from the vessel to an immigration station or other appropriate place for examination subject to the same provisions of law in respect of such removal as in the case of any other alien, and the owner, charterer, agent, consignee, or master of the vessel shall be subject to the same provisions of law, including penalties, in respect of such removal as in the case of any other alien."

(b) Subdivision (d) of section 20 of the immigration act of 1924 is amended by striking out the letter "(d)" at the beginning of such subdivision and inserting in lieu thereof the letter "(c)."

SEC. 7. (a) Section 33 of the immigration act of 1917 is amended by striking out the words "the preceding section" and inserting in lieu thereof the words "section 20 of the immigration act of 1924, as amended" and a comma, and by inserting after the word "admitted" the words "for permanent residence."

(b) Section 34 of the immigration act of 1917 is repealed.

(c) The act entitled "An act to provide for the treatment in hospitals of diseased alien seamen," approved December 26, 1920, is repealed, but shall remain in force as to all vessels, their owners, agents, consignees, and masters, and as to all seamen, arriving in the United States prior to the enactment of this act.

SEC. 8. Whenever in any law heretofore enacted it is provided that any alien shall be deported, the arrest and deportation of such alien shall (regardless of the manner provided in such law) be made in the same manner as provided in sections 19 and 20 of such immigration act of 1917, as amended, and whenever in any law hereafter enacted it is provided that any alien shall be deported, the arrest and deportation shall, unless expressly provided to the contrary, be made in the same manner as provided in such sections 19 and 20.

SEC. 9. Nothing in this act shall affect any deportation proceedings in which the warrant of arrest was issued before the enactment of this act nor relieve from deportation any alien who at the time of the enactment of this act was liable to deportation. That part of section 19 of such immigration act of 1917 which relates to the deportation of aliens convicted of a crime involving moral turpitude shall, notwithstanding the amendment of such section by this act, remain in force for the deportation of an alien where the crime was committed before the enactment of this act.

SEC. 10. (a) If any alien has been arrested and deported in pursuance of law, he shall be excluded from admission to the United States whether such deportation took place before or after the enactment of this act, and if he enters or attempts to enter the United States after the expiration of sixty days after the enactment of this act, he shall be guilty of a felony and upon conviction thereof shall be punished by imprisonment for not more than two years or by a fine of not more than $1,000, or by both such fine and imprisonment.

(b) For the purposes of this section any alien ordered deported (whether before or after the enactment of this act) who has left the United States shall be considered to have been deported in pursuance of law, irrespective of the source from which the expenses of his transportation were defrayed or of the place to which he departed.

(c) An alien subject to exclusion from admission to the United States under this section who is employed upon a vessel arriving in the United States shall be excluded and deported without being entitled to any of the landing privileges allowed by law to seamen.

(d) So much of section 3 of the immigration act of 1917 as reads as follows: "persons who have been deported under any of the provisions of this act, and who may again seek admission within one year from the date of such deportation, unless prior to their reembarkation at a foreign port or their attempt to be admitted from foreign contiguous territory the Secretary of Labor shall have consented to their reapplying for admission" is amended to read as follows: "persons who have been excluded from admission and deported in pursuance of law, and who may again seek admission within one year from the date of such deportation, unless prior to their reembarkation at a place outside the United States or their attempt to be admitted from foreign contiguous territory the Secretary of Labor has consented to their reapplying for admission."

SEC. 11. Any alien who enters the United States at any time or place other than as designated by immigration officials or eludes examination or inspection by immigration officials, or obtains entry to the United States by a false or misleading representation or the willful concealment of a material fact, shall be guilty of a misdemeanor and, upon conviction, shall be punished by imprisonment for not more than one year or by a fine of not more than $1,000, or by both such fine and imprisonment.

SEC. 12. Upon the final conviction of any alien of any offense in any court of record of the United States or of any State or Territory it shall be the duty of the clerk of the court to notify the Secretary of Labor, giving the name of the alien convicted, the nature of the offense of which convicted, the sentence imposed, and, if imprisoned, the place of imprisonment, and, if known, the place of birth of such alien, his nationality, and the time when and place where he entered the United States.

SEC. 13. If any provision of this act, or the application thereof to any person or circumstances, is held invalid, the remainder of the act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

APPENDIX B

DEPORTATION SECTIONS (SECS. 18, 19, AND 20) OF THE IMMIGRATION ACT OF FEBRUARY 5, 1917

SEC. 18. That all aliens brought to this country in violation of law shall be immediately sent back, in accommodations of the same class in which they arrived, to the country whence they respectively came, on the vessels bringing them, unless in the opinion of the Secretary of Labor immediate deportation is not practicable or proper. The cost of their maintenance while on land, as well as the expense of the return of such aliens, shall be borne by the owner or owners of the vessels on which they respectively came. That it shall be unlawful for any master, purser, person in charge, agent, owner, or consignee of any such vessel to refuse to receive back on board thereof, or on board of any other vessel owned or operated by the same interests, such aliens; or to fail to detain them thereon; or to refuse or fail to return them in the manner aforesaid to the foreign port from which they came; or to fail to pay the cost of their maintenance while on land; or to make any charge for the return of any such alien, or to take any security for the payment of such charge; or to take any consideration to be returned in case the alien is landed; or knowingly to bring to the United States at any time within one year from the date of deportation any alien rejected or arrested and deported under any provisions of this act, unless prior to reembarkation the Secretary of Labor has consented that such alien shall reapply for admission, as required by section 3 hereof; and if it shall appear to the satisfaction of the Secretary of Labor that such master, purser, person in charge, agent, owner, or consignee has violated any of the foregoing provisions, or any of the provisions of section 15 hereof, such master, purser, person in charge, agent, owner, or consignee shall pay to the collector of customs of the district in which the port of arrival is located, or in which any vessel of the line may be found, the sum of $300 for each and every violation of any provision of said sections; and no vessel shall have clearance from any port of the United States while any such fine is unpaid, nor shall such fine be remitted or refunded: *Provided*, That clearance may be granted prior to the determination of such question upon the deposit with the collector of customs of a sum sufficient to cover such fine. If the vessel by which any alien ordered deported came has left the United States, and it is impracticable for any reason to deport the alien within a reasonable time by another vessel owned by the same interests, the cost of deportation may be paid by the Government and recovered by civil suit from any agent, owner, or consignee of the vessel: *Provided further*, That the Commissioner General of Immigration, with the approval of the Secretary of Labor, may suspend, upon conditions to be prescribed by the Commissioner General of Immigration, the deportation of any aliens found to have come in violation of any provision of this act if, in his judgment, the testimony of such alien is necessary on behalf of the United States Government in the prosecution of offenders against any provision of this act or other laws of the United States; and the cost of maintenance of any person so detained resulting from such suspension of deportation, and a witness fee in the sum of $1 per day for each day such person is so detained, may be paid from the appropriation for the enforcement of this act,

or such alien may be released under bond, in the penalty of not less than $500, with security approved by the Secretary of Labor, conditioned that such alien shall be produced when required as a witness and for deportation.

No alien certified, as provided in section sixteen of this act, to be suffering from tuberculosis in any form, or from a loathsome or dangerous contagious disease other than one of quarantinable nature, shall be permitted to land for medical treatment thereof in any hospital in the United States, unless the Secretary of Labor is satisfied that to refuse treatment would be inhumane or cause unusual hardship or suffering, in which case the alien shall be treated in the hospital under the supervision of the immigration officials at the expense of the vessel transporting him: *Provided further*, That upon the certificate of an examining medical officer to the effect that the health or safety of an insane alien would be unduly imperiled by immediate deportation, such alien may, at the expense of the appropriation for the enforcement of this act, be held for treatment until such time as such alien may, in the opinion of such medical officer, be safely deported: *Provided further*, That upon the certificate of an examining medical officer to the effect that a rejected alien is helpless from sickness, mental or physical disability, or infancy, if such alien is accompanied by another alien whose protection or guardianship is required by such rejected alien, such accompanying alien may also be excluded, and the master, agent, owner, or consignee of the vessel in which such alien and accompanying alien are brought shall be required to return said alien and accompanying alien in the same manner as vessels are required to return other rejected aliens.

SEC. 19. That at any time within five years after entry any alien who at the time of entry was a member of one or more of the classes excluded by law; any alien who shall have entered or who shall be found in the United States in violation of this act or in violation of any other law of the United States; any alien who at any time after entry shall be found advocating or teaching the unlawful destruction of property, or advocating or teaching anarchy or the overthrow by force or violence of the Government of the United States or of all forms of law or the assassination of public officials; any alien who within five years after entry becomes a public charge from causes not affirmatively shown to have arisen subsequent to landing; except as hereinafter provided, any alien who is hereafter sentenced to imprisonment for a term of one year or more because of conviction in this country of a crime involving moral turpitude committed within five years after the entry of the alien to the United States, or who is hereafter sentenced more than once to such a term of imprisonment because of conviction in this country of any crime involving moral turpitude committed at any time after entry; any alien who shall be found an inmate of or connected with the management of a house of prostitution or practicing prostitution after such alien shall have entered the United States, or who shall receive, share in, or derive benefit from any part of the earnings of any prostitute; any alien who manages or is employed by, in, or in connection with any house of prostitution or music or dance hall or other place of amusement or resort habitually frequented by prostitutes or where prostitutes gather, or who in any way assists any prostitute or protects or promises to protect from arrest any prostitute; any alien who shall import or attempt to import any person for the purpose of prostitution or for any other immoral purpose; any alien who, after being excluded and deported or arrested and deported as a prostitute or as a procurer, or as having been connected with the business of prostitution or importation for prostitution or other immoral purposes in any of the ways hereinbefore specified, shall return to and enter the United States; any alien convicted and imprisoned for a violation of any of the provisions of section four hereof; any alien who was convicted or who admits the commission prior to entry of a felony or other crime or misdemeanor involving moral turpitude; at any time within three years after entry, any alien who shall have entered the United States by water at any time or place other than as designated by immigration officials, or by land at any place other than one designated as a port of entry for aliens by the Commissioner General of Immigration, or at any time not designated by immigration officials, or who enters without inspection, shall, upon the warrant of the Secretary of Labor, be taken into custody and deported: *Provided*, That the marriage to an American citizen of a female of the sexually immoral classes the exclusion or deportation of which is prescribed by this act shall not invest such female with United States citizenship if the marriage of such alien female shall be solemnized after her arrest or after the commission of acts which make her liable to deportation under this act: *Provided further*, That the provision of this section respecting the deportation of aliens convicted of a crime involving moral turpitude shall

not apply to one who has been pardoned, nor shall such deportation be made or directed if the court, or judge thereof, sentencing such alien for such crime, shall, at the time of imposing judgment or passing sentence or within thirty days thereafter, due notice having first been given to representatives of the State, make a recommendation to the Secretary of Labor that such alien shall not be deported in pursuance of this act; nor shall any alien convicted as aforesaid be deported until after the termination of his imprisonment: *Provided further*, That the provisions of this section, with the exceptions hereinbefore noted, shall be applicable to the classes of aliens therein mentioned irrespective of the time of their entry into the United States: *Provided further*, That the provisions of this section shall also apply to the cases of aliens who come to the mainland of the United States from the insular possessions thereof: *Provided further*, That any person who shall be arrested under the provisions of this section on the ground that he has entered or been found in the United States in violation of any other law thereof which imposes on such person the burden of proving his right to enter or remain, and who shall fail to establish the existence of the right claimed, shall be deported to the place specified in such other law. In every case where any person is ordered deported from the United States under the provisions of this act or of any law or treaty the decision of the Secretary of Labor shall be final.

SEC. 20. That the deportation of aliens provided for in this act shall, at the option of the Secretary of Labor, be to the country whence they came or to the foreign port at which such aliens embarked for the United States; or, if such embarkation was for foreign contiguous territory, to the foreign port at which they embarked for such territory; or, if such aliens entered foreign contiguous territory from the United States and later entered the United States, or if such aliens are held by the country from which they entered the United States not to be subjects or citizens of such country, and such country refuses to permit their reentry, or imposes any condition upon permitting reentry, then to the country of which such aliens are subjects or citizens, or to the country in which they resided prior to entering the country from which they entered the United States. If deportation proceedings are instituted at any time within five years after the entry of the alien, such deportation, including one-half of the entire cost of removal to the port of deportation, shall be at the expense of the contractor, procurer, or other person by whom the alien was unlawfully induced to enter the United States, or, if that can not be done, then the cost of removal to the port of deportation shall be at the expense of the appropriation for the enforcement of this act, and the deportation from such port shall be at the expense of the owner or owners of such vessels or transportation line by which such aliens respectively came, or, if that is not practicable, at the expense of the appropriation for the enforcement of this act. If deportation proceedings are instituted later than five years after the entry of the alien, or, if the deportation is made by reason of causes arising subsequent to entry, the cost thereof shall be payable from the appropriation for the enforcement of this act. A failure or refusal on the part of the masters, agents, owners, or consignees of vessels to comply with the order of the Secretary of Labor to take on board, guard safely, and transport to the destination specified any alien ordered to be deported under the provisions of this act shall be punished by the imposition of the penalties prescribed in section eighteen of this act: *Provided*, That when in the opinion of the Secretary of Labor the mental or physical condition of such alien is such as to require personal care and attendance, the said Secretary shall when necessary employ a suitable person for that purpose, who shall accompany such alien to his or her final destination, and the expense incident to such service shall be defrayed in the same manner as the expense of deporting the accompanied alien is defrayed. Pending the final disposal of the case of any alien so taken into custody, he may be released under a bond in the penalty of not less than $500 with security approved by the Secretary of Labor, conditioned that such alien shall be produced when required for a hearing or hearings in regard to the charge upon which he has been taken into custody, and for deportation if he shall be found to be unlawfully within the United States.

APPENDIX C

AN ACT To provide for treatment in hospital of diseased alien seamen

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That alien seamen found on arrival in ports of the United States to be afflicted with any of the disabilities or diseases mentioned in section 35 of the act of February 5, 1917, entitled "An act to regulate the immigration of aliens to, and the residence of aliens in, the United States," shall be placed in a hospital designated by the immigration official in charge at the port of arrival and treated, all expenses connected therewith, including burial in the event of death, to be borne by the owner, agent, consignee, or master of the vessel, and not be to deducted from the seamen's wages, and no such vessel shall be granted clearance until such expenses are paid or their payment appropriately guaranteed and the collector of customs so notified by the immigration official in charge: *Provided*, That alien seamen suspected of being afflicted with any such disability or disease may be removed from the vessel on which they arrive to an immigration station or other appropriate place for such observation as will enable the examining surgeons definitely to determine whether or not they are so afflicted, all expenses connected therewith to be borne in the manner hereinbefore prescribed: *Provided further*, That in cases in which it shall appear to the satisfaction of the immigration official in charge that it will not be possible within a reasonable time to effect a cure the return of the alien seamen shall be enforced on or at the expense of the vessel on which they came, upon such conditions as the Commissioner General of Immigration, with the approval of the Secretary of Labor, shall prescribe, to insure that the aliens shall be properly cared for and protected and that the spread of contagion shall be guarded against.

Approved December 26, 1920.

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69TH CONGRESS } HOUSE OF REPRESENTATIVES { REPT. 991
1st Session } { Part 2

DEPORTATION OF ALIENS

MAY 3, 1926.—Ordered to be printed

Mr. SABATH, from the Com ittee on Immigration and Naturalization, submitted the following

MINORITY REPORT

[To accompany H. R. 11489]

The undersigned member of the Committee on Immigration and Naturalization feels it his duty to dissent from the report of that committee made upon H. R. 11489. The report of the majority states:

> The immigration acts of 1917 and 1924, which now appear to represent the settled policy of this Government, have made it possible, to a great extent at least, to limit the entry into this country of undesirable and dangerous aliens. This bill will materially assist the immigration authorities in further preventing the entry of such aliens and provides methods whereby those already unlawfully in the United States and those who may hereafter unlawfully enter or seek to enter the country may be deported.

And further states:

> There should be no objection to the deportation of aliens who constitute a menace to or an unjust burden upon our Government.

The minority members desired and have assured the majority that they are ready and willing to support a deportation bill that would do what the majority claims this measure would accomplish and have agreed to support the bill as reported by a subcommittee of which the gentleman from Illinois, Mr. Holaday, was chairman. But at the very last minute this bill which has received careful consideration has been sidetracked and the present bill substituted. I have no positive knowledge at whose order this has been done, but I surmise that the order came from the source that is claiming the credit for the 1924 immigration law.

I wish to assure the House that I have no objection to the deportation of aliens who in the slightest degree may constitute a menace or even unreasonable burden upon our Government, and favor the

deportation of any and all undesirables, and I fully agree with the statement of the majority when they state:

> The principal reason for deporting undesirable aliens is to promote the maintenance of law and order in our country and to afford protection and opportunities for development to all the people residing in our country, aliens and citizens alike. No class of people suffer more from the actions of undesirables and law-breaking aliens residing in our midst, who in good faith are contributing to the welfare of the country and are in large numbers attempting to become citizens of the United States. Unworthy conduct and flagrant disregard of the laws of our country on the part of a very small percentage of the aliens residing in the United States unfortunately, but certainly, tend to create a prejudice in the public mind against all aliens. Therefore the deportation of that small percentage of aliens will redound to the benefit of the worthy and deserving aliens in the country to an equal, if not greater, degree than to that of our own citizens.

If that would be the main object I would gladly support the bill, but unfortunately such is not the fact.

In the first place the 1917 and 1924 acts make it impossible for the undesirable and dangerous aliens to enter legally. The amount of money that we have appropriated for the Coast Guard and the efficiency that is claimed for the service should prevent the smuggling of aliens over the Canadian and Mexican line, especially as the quota act of 1924 does not apply to these countries and they can come in unlimited numbers. Therefore the only other avenue remaining for illegal entry is by or through the desertion of seamen as has been testified to before our committee. However, notwithstanding that evidence the committee has not strengthened that provision of the law, and in fact has struck out section 12 that would have in a great measure aided the authorities in apprehending and deporting this class. Of course, the steamship interests oppose the provision and have threatened to oppose the measure if this provision or other provisions requested by the seamen's organization of America should be embodied in the bill. And therefore I embody in the report an excerpt from the statement submitted by Mr. Andrew Furuseth, the legislative representative of the seamen's organization of America, on this question.

NOTHING IN BILL THAT WOULD SIMPLIFY OR STRENGTHEN THE PRESENT LAW

As to deportation, we regret that notwithstanding the claims on the part of the committee that this bill will aid in deporting the vicious and dangerous gunman, there is nothing in the bill that would apply directly to them, and this notwithstanding that I have favored and insisted on such provision which would make possible the deportation of any and all aliens that may be apprehended for carrying concealed weapons in violation of any law.

SECTION 19

Section 19 of the present law provides for the deportation within five years of those guilty of crimes involving moral turpitude and for many other offenses without limitation of time. I feel that the majority is obliged to concede that if any undesirables did enter or were not deported it was not the fault of the law, but the failure to deport as claimed, because of lack of funds. But in view of the large increased appropriations, even greater than requested by the department, it will make possible and enable under the existing laws to

deport all that can be truthfully classified as dangerous or illegally in the United States.

Nor is there a provision in the bill as advocated by me of deporting the professional gamblers and operators of lotteries.

However, I acknowledge that many of the most objectionable features that were embodied in the 1925 deportation bill passed by the House have been modified or eliminated and feel that if a little more consideration had been given to the three unreasonable provisions in this bill it would have had unanimous support.

To make my position clear and to familiarize the unbiased Members more fully with what I term unnecessarily harsh—yes, inhuman—provisions of this bill, I will briefly set forth my views and objections.

As is shown by the report of the majority, this bill contains 12 amendments to the present law. Nine of these amendments I concur in and they have my support. But I do feel that amendment 4, or paragraph 4, which provides—

(4) An alien who at any time within seven years after entry is a public charge from causes not affirmatively shown to have arisen subsequent to entry—at any time after entry—

is unreasonably harsh.

While there is some basis for an argument in favor of the imposition of the burden of proof upon an immigrant at the time of entry into the United States that he will not become a public charge, or as to his mental, physical, or moral fitness, it is entirely a different proposition to impose upon an alien who has been admitted and who is subsequently sought to be deported, the burden of showing affirmatively that the cause arose subsequent to entry into the United States. In these proceedings the Government takes the initative. It is seeking to remove out of the country one who was admitted in regular course. Such action on its part gives rise to a legitimate presumption of regularity. The burden of showing the contrary in proceedings so initiated by it, under every rule heretofore prevailing in our jurisprudence should therefore be borne by it.

Take the case of an alien workman coming to this country 10 years ago who has become ill, or due to an injury he has received in hazardous and dangerous employment has broken down physically and is taken to a county or State hospital or sanitarium unable to maintain himself, temporarily at least, though all the time of his residence here he has been diligently engaged in his occupation; has been leading an upright life and providing for his family. But the moment he is sent or taken to any public institution his name is forwarded to the Immigration Bureau as a public charge and immediately proceedings for his deportation are instituted. Why should he be required to prove that when he arrived here there was not by some possibility an inherent or undiscovered weakness which, in course of time, and as a result of his exertions, developed into a condition of serious disability, the country in the meantime having had the benefit of his labor and his industry? To prove the negative might call for the testimony of expert witnesses and their attendance at the hearing before the immigration inspector. To bear the expenses of such witnesses may be pecuniarily impossible for the alien, and yet failure to produce this testimony would at once establish the case of the Government. Under the terms of this bill all that it would be necessary for it to do

would be to arrest the alien, bring him before the immigrant inspector, present its claim that he has become a public charge, and then rest its case upon the presumption created by this bill.

It would seem that the mere statement of these facts would demonstrate the injustice of such a law, and it would be bad enough if a time limit similar to that applicable to a criminal case should be attached to this law, but to extend, yes! to remove the time limit creates a state of affairs which is really alarming and presents possibilities which are abhorrent to contemplate.

What I have said with regard to amendment 4, or paragraph 4, is equally true of amendment or subdivision 5, which provides—

That any alien who at any time within seven years after entry, from causes not affirmatively shown to have arisen subsequent to entry, is an idiot, imbecile, feeble-minded person, epileptic, insane person, person of constitutional psychopathic inferiority, or person with chronic alcoholism—at any time after entry.

I understand that the best medical authorities claim and maintain that 75 per cent of the people of the United States on a close examination and investigation could be certified as being of constitutional psychopathic inferiority. Consequently under this provision most any alien, it matters not how long within the United States, could be deported.

DEPORTATION FOR MERE OFFENSE

(6) An alien who is convicted of any offense (committed after the enactment of the deportation act of 1926 and within 10 years after entry) for which he is sentenced to imprisonment for a term of one year or more—at any time after entry but not after the expiration of three years after the termination of the imprisonment.

The above amendment or paragraph (6) contains, to my mind, however, the most objectionable provision. It provides for the deportation of an alien convicted, not of a felony but for any offense punishable by imprisonment for one year. The present law provides for the deportation of an alien guilty of a crime involving moral turpitude, but under this provision an alien will be subjected to deportation, although guilty of a misdemeanor or offense of a technical character, though his first offense, and that very likely as the result of lack of familiarity with local conditions or law, and be subjected to deportation for such offense committed at any time within 10 years after entry and at any time after entry.

In many of our States many misdemeanors are punishable by imprisonment of one year. Consequently an alien who may have been sentenced for one year for violation of some law and, technically speaking, which is not a crime, committed within 10 years after entry, or charged and found guilty 5 or 10 years thereafter, he would be subject to deportation, and this notwithstanding the fact that he has led an upright life and borne a good reputation and has provided properly for his wife and his family. In addition thereto his wife may be an American citizen or have acquired American citizenship under the Cable Act, as required; and notwithstanding the further fact that he may be the father of several children American born. Unfortunately none of these facts were taken into consideration when the committee embodied this extremely harsh and inhumane paragraph.

The Constitution provides (Article VIII)—

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

I ask do not these paragraphs I have called attention to provide for cruel and unusual punishment? To my mind they do, and therefore I consider them in violation of Article VIII of the Constitution. It is unfortunate that so many provisions in this bill if not actually within the prohibition of an ex post facto clause, border on being same, and I am inclined to believe that the courts will hold that this provision is in violation of the Constitution, as an alien is entitled by treaties and under our laws to the same treatment of the law as an American citizen.

I have given considerable thought to this subject because of my anxiety that our legislation in respect to the drastic and summary remedy of deportation shall not involve unfair, unjust or unreasonable provisions. I recognize the wisdom of having a clear and unambiguous codification of the law on this subject, but it should not be harsh or tyrannical or contrary to the best traditions of America.

The present law provides that the deportation even for a crime involving moral turpitude shall not take place if the court or judge sentencing such alien at the time of imposing sentence or within 30 days thereafter makes a recommendation to the Secretary of Labor that such alien shall not be deported. I feel that in view that we have raised the limit from five to seven years and in some respects to 10 years and in certain cases completely eliminated the time limit within which an alien can be deported that the provision giving the court the right to recommend that an alien should not be deported should be retained in the bill. Especially in view of the fact that the court or the judge sentencing such defendant having heard the evidence and having the defendant before him is in a position to say whether he is a criminal or merely unfortunately involved in committing the offense he is charged with and that he is in no way a dangerous person or detrimental to society.

As I have stated there are three provisions that are actually objectionable and should be modified, and if due consideration would be given by the House, I feel that they will aid the minority in amending same. Outside of these three provisions that I have called attention to, the bill has the support of all.

Therefore, I deplore that it should have been necessary for the majority for the purpose of prejudicing the minds of Members of the House to embody at the very last minute in their report, a letter from Mr. L. C. Andrews, Director of Prohibition, on a bill, notwithstanding he states that "lack of time has prevented him from giving as much consideration to as he would have desired." I quote below an excerpt of Mr. Andrews's letter:

Hon. ALBERT JOHNSON,
House of Representatives.

MY DEAR CONGRESSMAN JOHNSON: I am sorry that lack of time has prevented me from giving as much consideration to H. R. 11489 and the preliminary draft of this bill as I would have desired.

As a general plan for the deportation of aliens for offenses against the laws of the United States, I think the bill is a good one. The provisions of subdivision 8 of section 2, on page 3, apply to aliens violating the national prohibition act and seem adequate and not at all unreasonable. I believe that such a bill would in all probability prove to be of aid in law enforcement. It has been the experience of the prohibition administrators in several districts that the preponderance of law violations come from the foreign-born element.

I concede that it might have been the experience of the prohibition administrators in several districts that the preponderance of law violations comes from the foreign-born element. But he does not state they are the districts that are populated with foreign born. Of course he does not state that the law is violated by the aliens, but by the foreign born.

In view of the articles of General Butler; statements of Mr. Buckner, the district attorney of New York; Mayor Dever, of Chicago; and the statements of many judges, including Federal Judge James H. Wilkerson, of Chicago, who made the following statement recently:

> For the last six months the only cases the Government has brought in here have involved the poor, the friendless, and the ignorant. The Government hasn't brought in a single big violator in that time. I won't send this man to jail.

From the statements of the above-mentioned men, some of whom testified before the Senate Committee on Prohibition recently, it is shown that the powerful and influential violators are not molested. It is to be deplored that General Andrews should have permitted himself to be used for the purpose of criticizing the foreign born, maligning and libeling them and merely to secure the support of the so-called prohibition forces for this bill, which was uncalled for, unnecessary, and not needed.

For over 100 years America properly and justly prided itself upon having the most progressive and most liberal form of government. Therefore it is unfortunate that within the last few years we should by meets and bounds draw away from the fundamental principles of democaracy and should emulate and even outdo the most bureaucratic forms of government that ever existed, and especially is it to be regretted, in view of the fact that to-day the formerly most oppressive governments of Europe are modifying and changing and humanizing their laws; whilst we in this country are enacting harsher and inhumane laws which are in direct conflict with the principles on which this Nation has been founded.

In view of the many misleading reports and statements made as to immigration and emigration and deportation, I embody in my minority report extracts from the latest available statistics as compiled by the Commissioner of Immigration, which will show how unfair some statements and claims that are being made on the floor and elsewhere are.

The net increase of immigration over emigration for 10 years, and this includes even the year before the 1917 illiteracy act had been enacted, is 2,515,032, as shown in the following statement:

The total increase for 10 years of immigration is as follows:

Period	Immigrant	Emigrant	Period	Immigrant	Emigrant
1916	298,826	129,765	1924	706,896	76,789
1917	295,403	66,277	1925	294,314	92,728
1918	110,618	94,585			
1919	141,132	123,522	Total	3,914,893	1,399,861
1920	430,001	288,315		1,399,861	
1921	805,228	247,718			
1922	309,556	198,712	Total increase, 1916–1925	2,515,032	
1923	522,919	81,450			

And of this increase 1,478,593 came from the following countries during the years 1916 to 1925, inclusive, as shown in the statement below, leaving a net European increase for the last 10 years of 1,036,439.

Immigration, 1916 to 1925, from countries not under quota

	1916	1917	1918	1919	1920	1921	1922	1923	1924	1925	Total
British North America	101,551	105,399	32,452	57,782	90,025	72,317	46,810	117,011	200,690	102,753	926,790
Central America	1,135	2,073	2,220	2,589	2,360	2,254	970	1,275	2,000	1,199	18,075
Mexico	18,425	17,869	18,524	29,818	52,361	30,758	19,551	63,768	89,336	32,964	373,374
South America	4,286	6,931	3,343	3,271	4,112	5,015	2,668	4,737	9,270	2,470	46,103
West Indies	12,027	15,507	8,879	8,826	13,808	13,774	7,449	13,181	17,559	2,106	113,116
Other America	31	77	47	46	702	130	25	15	58	4	1,135
Total											1,478,593

The total immigration for 1924 and 1925 by countries is as follows:

Country of last permanent residence	1924	1925	Country of last permanent residence	1924	1925
All countries	706,896	294,314	Rumania	11,142	1,163
			Russia	12,649	1,775
Total Europe	364,339	148,366	Spain, including Canary and Balearic Islands	932	275
Albania	250	79	Sweden	18,310	8,391
Austria	7,505	899	Switzerland	3,842	2,043
Belgium	2,065	726	Turkey in Europe	1,481	263
Bulgaria	550	140	Yugoslavia	5,835	724
Czechoslovakia	13,554	2,462	Other Europe	328	144
Danzig, Free City of		243			
Denmark	5,281	2,444	Total Asia	22,065	3,578
Esthonia	765	131			
Finland	3,662	480	China	6,992	1,937
France, including Corsica	6,387	3,906	Japan	8,801	723
Germany	75,091	46,068	India	183	65
Great Britain, Ireland:			Syria and Palestine	2,945	670
England	24,466	13,897	Turkey in Asia	2,820	51
Ireland	17,111	26,650	Other Asia	323	132
Scotland	33,471	12,378			
Wales	1,553	897	Total America	318,913	141,496
Greece	4,871	826			
Hungary	5,806	616	Canada and Newfoundland	200,690	102,753
Italy, including Sicily and Sardinia	56,246	6,203	Central America	2,000	1,199
Latvia	1,473	263	Mexico	89,336	32,964
Lithuania	2,369	472	South America	9,270	2,470
Luxemburg		150	West Indies	17,559	2,106
Netherlands	3,783	1,723	Other America	58	4
Norway	11,986	5,975			
Poland	28,806	5,341	Africa	900	412
Portugal, including Azores and Cape Verde Islands	2,769	619	Australia, Tasmania, and New Zealand	635	416
			Other Pacific Islands	41	46

The total emigration for the years 1924 and 1925 by countries is as follows:

Country of intended future permanent residence	1924	1925	Country of intended future permanent residence	1924	1925
All countries	76,789	92,728	Rumania	572	539
			Russia		
Total Europe	58,988	75,064	Spain, including Canary and Balearic Islands	1,096	1,433
				2,967	3,982
Albania	284	334	Sweden	830	1,167
Austria	217	466	Switzerland	390	423
Belgium	517	459	Turkey in Europe	128	100
Bulgaria	233	208	Yugoslavia	1,991	2,464
Czechoslovakia	1,568	2,723	Other Europe	28	67
Danzig, Free City of		5			
Denmark	510	562	Total Asia	6,943	5,411
Esthonia	11	5			
Finland	360	464	China	3,847	3,412
France, including Corsica	1,249	1,205	Japan	2,155	1,212
Germany	1,178	3,646	India	161	128
Great Britain, Ireland:			Syria and Palestine	492	479
England	4,361	6,681	Turkey in Asia	211	89
Ireland	1,282	1,133	Other Asia	77	91
Scotland	827	1,958			
Wales	60	53	Total America	10,231	11,561
Greece	7,250	6,574			
Hungary	522	875	Canada and Newfoundland	2,601	2,580
Italy, including Sicily and Sardinia	22,904	27,151	Central America	567	661
			Mexico	1,926	2,954
Latvia	67	29	South America	1,052	1,331
Lithuania	335	511	West Indies	4,081	4,035
Luxemburg		18	Other America	4	
Netherlands	345	743			
Norway	955	1,765	Africa	108	154
Poland	2,594	3,721	Australia, Tasmania, and New Zealand	485	503
Portugal, including Azores and Cape Verde Islands	3,357	3,600	Pacific islands (not specified)	34	35

The next table will show aliens deported for the year 1925, by countries, as well as the cause under the present law. I invite close scrutiny of these tables, showing what nationalities lead the deportation figures, which figures clearly show that the continuous charges against the so-called newer immigration and the reports and statements of gentlemen like Professor McLaughlin, Mr. Grant, Mr. Trevor, Mr. William B. Griffith, and others are not only disapproved but conclusively show that they are not based on any truth or fact, and that in the future the majority of the committee nor any other honest person will desist from continuing to give publicity to misleading and false facts.

ADOLPH J. SABATH.

TABLE 56.—*Aliens deported to countries whence they came after entering the United States, fiscal year ended June 30, 1925, by race or people and causes*

Race or people	Number deported	Feeble-minded	Insanity	Epileptics	Constitutional psychopathic inferiority	Other mental conditions	Tuberculosis (contagious)	Other contagious diseases	Pregnancy	Other physical conditions	Prostitutes, or inmates of houses of prostitution, and aliens coming for any immoral purpose	Supported by or received the proceeds of prostitution, or connected with house of prostitution or other place habitually frequented by prostitutes	Aliens who procured or attempted to bring in prostitutes or aliens for any immoral purpose, or assist, or protect prostitutes from arrest	Found in the U. S. after having been deported as a prostitute or a procurer or as having been connected with the business of prostitution or importation for prostitution or other immoral purposes	Anarchists, and violations under the act of Oct. 16, 1918, as amended June 5, 1920	Criminals	Under narcotic act	Polygamists	Without proper visa under immigration act of 1924	Under per centum limit act of 1921 (excess quota)	Without passport under State Department regulations	Under passport provision of sec. 3, act of 1917	Under Chinese exclusion act	Geographically excluded classes (natives of that portion of Asia and islands adjacent thereto described in sec. 3, act of 1917)	Under last proviso of sec. 23, act of 1917; and under sec. 17, immigration act of 1924	Contract laborers	Unable to read (over 16 years of age)	Under 16 years of age, unaccompanied by parent	Assisted aliens	Professional beggars and vagrants	Likely to become a public charge	Entered the United States within one year of previous deportation	Entered without inspection, or at a time or place not designated by immigration officials. Deportation required within three years	Other causes
Total	9,495	4	527	6	24	47	28	76	9	165	209	51	53	14	22	637	42	9	2,723	394	430	26	93	57	115	66	474	24	37	3	1,758	164	1,169	39
African (black)	167		28		1	3		1	2	9	3		1			13			35		6				3	1	9	1	1		42	2	10	
Armenian	26		2					1								1			10		1				1		2				3	2	3	
Bohemian and Moravian (Czech)	30		10							1	1					1			4	2	3										4		1	3
Bulgarian, Serbian, and Montenegrin	105		3							3		2				2			37	17	13				1		4				24		1	
Chinese	261		1							3	3	4	1				27		22				93				5	1			43		57	1
Croatian and Slovenian	117		4							3		1	1		4	6			36	9	18						1				16	2	11	
Cuban	8															2			3												2		1	
Dalmatian, Bosnian, and Herzegovinian	22		2			1	2	4		9	18	5	3	1	1	26			111	1	1				1		3		2		3		2	
Dutch and Flemish	249		5	1	1		3		1	4		10			1	6		1	115	22	22						3				43	1	21	2
East Indian	67									1						1			9												4		2	
English	1,072		45		3	7	1	7	3	15	26	1	14		1	117			305	63	13			47	1	10	12	2	2		237	31	164	2
Finnish	94		3				2	2								8			30	9	14				2	1			1		10	4		
French	469	1	18			2	4			9	18	5	3	1		48			83	3	2				2	7	34	2	2		120	21	89	1
German	750		56			4	5	2	3	19	5	1			1	26			315	38	21				11	1	3	2	19		121	4	84	6
Greek	279		15			1	6	2	1	3	1	10		1		11	1		93	30	23				13	1	1	1			42	1	21	1
Hebrew	250	1	38			5	6			8	1	1				10	1		66	6	17				9	2		1	3		49	5	18	2
Irish	554	1	37		2	2	2	3		8	5	1				27			177	47	56						3	1			111	11	48	1
Italian (north)	152		14			1	1						1			9			59	10	10				11		5				21	2	8	1
Italian (south)	644		60		1	1	4			12	8	7	4		3	43	2		231	34	50				15		16		2		101	8	36	1
Japanese	83		1									3				5			19			26		2		2	1			17		6	1

TABLE 56.—*Aliens deported to countries whence they came after entering the United States, fiscal year ended June 30, 1925, by race or people and causes*—Continued

Race or people	Number deported	Feeble-minded	Insanity	Epileptics	Constitutional psychopathic inferiority	Other mental conditions	Tuberculosis (contagious)	Other contagious diseases	Pregnancy	Other physical conditions	Prostitutes, or inmates of houses of prostitution, and aliens coming for any immoral purpose	Supported by or received the proceeds of prostitution, or connected with house of prostitution or other place habitually frequented by prostitutes	Aliens who procured or attempted to bring in prostitutes or aliens for any immoral purpose, or assists, or protects prostitutes from arrest	Found in the United States after having been deported as a prostitute or a procurer or as having been connected with the business of prostitution or importation for prostitution or other immoral purposes	Anarchists and violations under the act of Oct. 16, 1918, as amended June 5, 1920	Criminals	Under narcotic act	Polygamists	Without proper visa under immigration act of 1924	Under per centum limit act of 1921 (excess quota)	Without passport under State Department regulations	Under passport provision of sec. 3, act of 1917	Under Chinese exclusion act	Geographically excluded classes (natives of that portion of Asia and islands adjacent thereto described in sec. 3, act of 1917)	Under last proviso of sec. 23, act of 1917; and under sec. 17, immigration act of 1924	Contract laborers	Unable to read (over 16 years of age)	Under 16 years of age, unaccompanied by parent	Assisted aliens	Professional beggars and vagrants	Likely to become a public charge	Entered the United States within one year of previous deportation	Entered without inspection, or at a time or place not designated by immigration officials. Deportation required within three years	Other causes
Korean	6															1	1												1			1
Lithuanian	23											1			1	3			7										6	1		
Magyar	72		3			1	1			1	2	1				5			24	2	6				3	1			16		6	
Mexican	1,751	1	51	3			4	29		29	114	6	19	11		199	9		235			2			2	25	284	9	1	347	24	346	3
Pacific Islander	3																													2			
Polish	161		12		1					8	4		2			10			39	3	19			1			5	3		21	8	17	5
Portuguese	65		7			2		3		3		1				2			17	3	8						6			11		2	
Rumanian	82		4				1			3		2	1			3			17	3	10				11		2			15	2	7	1
Russian	93		2				1			3					4	5			26	3	17				3		2	1		7	10	8	1
Ruthenian (Russniak)	44																		17	1	3						5			11	1	4	1
Scandinavian (Norwegians, Danes, and Swedes)	512		44		1	5	1	10	1	12	6				2	18			226	16	36							2		62	4	63	3
Scotch	463		22		1	3	1	3	3	2	6				1	27			142	36	16					3	8			109	15	62	3
Slovak	97		11							3					2	1			43	7	7						1		1	19		1	
Spanish	324		14		1	1				2	3	3			1	13	1		141	18	24					1	13		1	41	1	38	
Spanish American	67		8		2	1	1			1						6			24		1						2	1		10		9	
Syrian	116		2				1	1								2			32	8	6						8			31	1	9	1
Turkish	18		1					1		1						1			7		2				13	1	1			4			
Welsh	42					1										4			20	3	1									8	3	2	
West Indian (except Cuban)	7		1				2			1																				3			
Other peoples	150		3								3	1	2			6		9	46		2			6	9		31			21	1	10	

STATEMENT OF MR. ANDREW FURUSETH

The committee had before it ample and indisputable evidence of the fact that our exclusion laws are continuously violated by American and foreign vessels who employ Chinese and Japanese in their crews; that Chinese pay up to $1,100 for being brought to the United States, that such vessels bring the Chinese in by leaving this country with a smaller number of seamen than they had on arrival, and that the smuggling is made easy by carrying Chinese in the crew to which a large number may be added in supposed ignorance of the master and officers of such vessel. There is further indisputable testimony that men are coming from Europe in the same way and that the smuggled men pay up to $300 to be landed in this country in such way as to be able to mingle with their countrymen already here and further that about 50 per cent of the men now in coastwise trade are there contrary to law. That such fact makes any development of a native personnel very difficult, if not impossible, is plain. That the development of an American merchant marine and any real sea power for America is impossible without a sufficient number of skilled native and naturalized seamen is now officially admitted by all.

(c) Under the law as it was up to the passing of the immigration act of 1917, persons excluded from the United States could not be employed in the coastwise trade. This kept the Chinese out of the coastwise trade in spite of the efforts made by sundry shipowners to employ them. After 1917 this was strengthened so that persons not admissible to the United States could not be employed in that trade; but this meant little or nothing until the immigration law of 1924 placed the burden of proof on the alien. Lying, whether by shipowners or seamen, then became difficult, if not impossible, and as Congress appropriated money for deportation the law began to be enforced. The shipowners protested, but fortunately to no avail. Section 33 of the immigration law of 1917 makes it a condition that the seaman must "intend to reship on board of any other vessel bound to any foreign port or place" before he can be legally landed "for the purpose of reshipping." Section 34 provides for deportation of seamen who enter in violation of law, so it is not now within the discretion of the Secretary of Labor to suspend the law and permit the coastwise shipowner to employ seamen not legally entered in the United States, because sections 33 and 34 of the law of 1917 stand in the way. This proposed and reported bill repeals section 34, and the report 991 on pages 8 and 9 explains why it is done. The purpose is to authorize the Secretary of Labor to make rules for the employment in the coastwise trade of men who can not be admitted to permanent residence within the United States. The Secretary of Labor who would refuse would have to be a man with a will like nickel steel, and then he might be overruled by the President. Section 34 must be retained in the law or there must be a specific section put into this bill prohibiting the employment in the coastwise trade of any person not capable of becoming a citizen of the United States. Nothing short of this will retain the Lake and the coastwise trade to the American as training ground for American seamen. Thus the future prospect of a merchant marine and sea power is destroyed. But that is not all. No power that can possibly be placed behind any regulations can in the time of peace prevent the men in the coastwise trade from finding friends that will assist them to find such employment on shore as they may desire. Thus will this bill, if enacted into law, make a mockery of the immigration laws.

After the passing of the immigration quota law in 1921 the pressure for admission to the United States increased to such an extent that men in Europe were willing to pay considerable sums of money to come to the United States. The system had developed considerably already in 1920. Vessels had come to this country overmanned and had left undermanned in order to bring men who could not comply with the immigration laws. This fact was laid before the then Secretary of Commerce, Mr. Alexander, who drafted what is now section 6 of S. 3574 as a regulation, but because of his leaving office it was not issued. It provided that a vessel shall take away as many persons in her crew as she had on arrival. It was urged upon the House Committee on Immigration in 1922 but could get no attention because the representatives of the shipowners denied the truth. It was urged again upon the committee in 1924 with the same opposition and the same result, although the departments declared in favor of the so-called Raker amendment. It was not understood, and was therefore voted down in the House, and then suffered the same fate in the Senate. The amendment has been before the committee of the House during the last Congress and during this session, but by reason of the determined hostility of steamship interests it is left out of the reported bill, which was logical in a bill such as this. It is not claimed for this proposal that it will completely stop the smuggling of

immigrants; but it will, if adopted, turn a broad, swift river into a rippling brook. If it be the desire to stop the use of the marine law as a means to violate the immigration law and the use of the immigration law to nullify the marine law, this remedy, which has had six years of thought and has received the indorsements of the departments, is surely worth trying, and any bill that is to become law ought to contain this proposal, which will give force and effect to the two new policies of the United States.

The reenactment is in subsection (c) of section 3 on pages 11 and 12. The repealing is in subsection (c) of section 7. The act to be repealed is Appendix (C) attached to the report. The repeal of this act, which has been fought through several courts and unanimously upheld by the Supreme Court of the United States, is solely in the interest of foreign vessels, because American shipowners may relieve themselves of it by employing citizens or men who have been legally admitted to the United States and have declared their intention to become citizens.

Subsection (c) of section 10, page 22, reads as follows: "An alien subject to exclusion from admission to the United States under this section who is employed upon a vessel arriving in the United States shall be excluded and deported without being entitled to any of the landing privileges allowed by law to seamen." This means, it would seem, that he is to be kept on board of the vessel as a prisoner and that the vessel will be permitted to take him to sea again against his will. There is nothing here to indicate that he is to be deported under section 18.

Section 8, page 20, says that "deportation shall, unless expressly provided to the contrary, be made in the same manner as provided in such sections 19 and 20." That seems to be on the same vessel. It is respectfully submitted that such vessel is within and subject to the jurisdiction of the United States; that the seaman is not held on the vessel by the common hazard because the vessel is in safety; that the vessel is private property and can not in this way be made into a prison; that to compel the seaman to proceed to sea in such vessel is to enforce involuntary servitude on him; and that such action would in no way serve to deter bringing such men in the crew as suggested in the report, but would, on the contrary, be a premium on the bringing of such men as seamen. Subsection (b) of the same section provides in substance that any person ordered deported shall be considered as having been deported even though, as is the case, some 2,000 seamen who voluntarily shipped as seamen and thus saved the United States some thousands of dollars with the understanding that they may come back legally. The question is respectfully submitted whether such law would be held to be valid if submitted to the courts for review, and further whether it is not contrary to the interests of this country to assist a foreign vessel to obtain cheap men by compelling men to ship at any wages under compulsion if compulsion there be in the case. If, on the contrary, there be no compulsion, how can there be deportation in the legal sense?

For the purpose of information about the activities of the world's shipowners attention is called to an organization of shipowners which is called "The International Shipping Federation (Ltd.). This organization is incorporated in England with headquarters in London. Its executive council is made up of prominent shipping men from the different important maritime nations. The United States is not mentioned as furnishing any member to the council.

The objects for which the company is established are—

"(1) To federate for the purposes hereinafter expressed, or some of them, associations of shipowners for the purpose of protection of shipowners or the promotion of defense of their interests and associations formed by shipowners or other persons or for any other objects which the company shall consider analogous or conducive and whether incorporated or not incorporated and whether formed in the United Kingdom or abroad and whether already existing or hereafter formed and their nominees.

"(2) To consider all questions affecting the interest of the shipping trade and other trades connected therewith and to do all such things as may seem expedient with a view to the promotion of such interests.

"(3) To procure the adoption, improvement, repeal, abrogation, or alteration of any laws, maritime contracts, usage, and customs in relation to such trades which it may seem to the company desirable to adopt, improve, repeal, abrogate, or alter and to oppose, delay, and resist any enactments, rules, regulations, by-laws, customs, or usages which may seem adverse to the interests of such trade or any department thereof."

Respectfully submitted.

ANDREW FURUSETH.

Filed by Adolph J. Sabath.

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